

08:08:46 1

IN THE UNITED STATES DISTRICT COURT

2

FOR THE DISTRICT OF DELAWARE

3

4

UNITED STATES OF AMERICA, ) VOLUME 4

)

5

) CRIMINAL ACTION

v.

) NO. 23cr61 (MN)

6

)

ROBERT HUNTER BIDEN,

)

7

)

Defendant.

)

8

9

Thursday, June 6, 2024

10

9:00 a.m.

11

Jury Trial

12

Courtroom 4A

13

844 King Street

14

Wilmington, Delaware

15

16

BEFORE: THE HONORABLE MARYELLEN NOREIKA

17

United States District Court Judge

18

19

APPEARANCES:

20

SPECIAL COUNSEL'S OFFICE

21

BY: DEREK E. HINES, ESQ.

22

BY: LEO WISE, ESQ.

23

24

Counsel for the

25

United States of America

1 APPEARANCES CONTINUED:

2  
3 DALTON & ASSOCIATES, P.A.  
4 BY: BARTHOLOMEW J. DALTON, ESQ.  
5 BY: CONNOR DALTON, ESQ.

6 -and-

7 WINSTON & STRAWN LLP  
8 BY: ABBE DAVID LOWELL, ESQ.  
9 BY: DAVID KOLANSKY, ESQ.  
10 BY: ISABELLA OISHI, ESQ.

11 Counsel for the Defendant

12 - - - - -

13  
08:51:47 14  
08:51:47 15 COURT CLERK: All rise.

08:55:05 16 THE COURT: All right. Good morning, everyone.

08:55:08 17 Please be seated.

08:55:11 18 You had some issues?

08:55:13 19 MR. LOWELL: Good morning, Your Honor.

08:55:14 20 THE COURT: Mr. Lowell, good morning.

08:55:16 21 MR. LOWELL: First, at the end of the day  
08:55:18 22 yesterday -- first I should say that I did as I said I would  
08:55:22 23 do and I've thinned this and turned it into a shorter event  
08:55:26 24 so hopefully I used the time wisely.

08:55:29 25 Secondly, when we left the day I was raising the

08:55:31 1 issue that we started, on page 697 of the transcript.

08:55:54 2 THE COURT: Yes.

08:55:54 3 MR. LOWELL: Lines 7 through 14. He was asked

08:56:00 4 "What happened next after you see Mr. Biden sign the form

08:56:03 5 and date it?

08:56:04 6 "What happened next is Jason said, also we would

08:56:06 7 need for the passport, another form of like identification

08:56:12 8 stating his address, it could be a bill or it could be

08:56:16 9 vehicle registration.

08:56:17 10 "What's the next thing you observed?

08:56:19 11 "I observed Mr. Biden leave out and then come

08:56:22 12 back in."

08:56:22 13 So on that, the questioning would be what was

08:56:24 14 the issue. He was never asked yet what was the issue that

08:56:27 15 you went to talk to Mr. Turner about that caused you to be

08:56:31 16 asking that question. And then he doesn't state what

08:56:34 17 happens next. So it leaves open whether he says that there

08:56:37 18 was another form of identification because he says he went

08:56:40 19 out and he came back in, so I would ask him whether that

08:56:44 20 happened.

08:56:44 21 THE COURT: If he says no, what's next?

08:56:47 22 MR. LOWELL: If he says no, nothing.

08:56:53 23 THE COURT: So you say.

08:56:54 24 MR. LOWELL: If he says no other form of

08:56:56 25 identification was presented when Mr. Biden came back in,

08:56:58 1 no, if he says yes, then I have to ask him what it was and  
08:57:01 2 then we'll see where that goes because he attaches to the  
08:57:06 3 4473 form only the passport, he doesn't attach any other  
08:57:09 4 form.

08:57:09 5 THE COURT: All right. So what is your  
08:57:11 6 position?

08:57:11 7 MR. HINES: Yeah, so on the second question, did  
08:57:13 8 he see what the secondary form of identification was, if  
08:57:18 9 anything, he can ask that. I anticipate Mr. Cleveland will  
08:57:22 10 say I didn't see. But as far as like his first question,  
08:57:26 11 what is the issue, what is the issue, the Court has already  
08:57:29 12 ruled on that. The gun store is not on trial for whether or  
08:57:32 13 not they collected a supplemental form so that would be an  
08:57:35 14 inappropriate question and not relevant in this case.

08:57:38 15 MR. LOWELL: Not what the issue was, I could ask  
08:57:40 16 that better, what did you say to Mr. Palimere and/or  
08:57:43 17 Mr. Turner.

08:57:44 18 MR. HINES: So the portion that he just cited  
08:57:48 19 there, Mr. Cleveland on the stand is not saying anything,  
08:57:51 20 it's Mr. Turner who says he's got to go get another form of  
08:57:55 21 identification. Mr. Cleveland has nothing to do with that  
08:57:57 22 process according to what he's testified to and what  
08:58:01 23 Mr. Lowell has cited to in the transcript.

08:58:03 24 MR. LOWELL: But he's saying what happened next  
08:58:08 25 is Jason said, so I want to ask him what did he say to

08:58:11 1 Jason.

08:58:15 2 MR. HINES: That Jason said.

08:58:17 3 MR. LOWELL: Yeah, what happened next, is Jason.

08:58:20 4 MR. HINES: Jason Turner says.

08:58:21 5 MR. LOWELL: But you're cutting out --

08:58:23 6 THE COURT: Hold on. I'm trying to get this in  
08:58:25 7 context. Did he see him sign it? Yes. And then we made  
08:58:31 8 sure that it was the same person. And we said there is a  
08:58:36 9 date. Who wrote the date? Mr. Biden did. Then Section A  
08:58:42 10 is completed. Was -- did you see Section A completely  
08:58:47 11 completed by Mr. Biden. Yes. Has anyone else filled out  
08:58:51 12 anything in that section. No. What happens next? After  
08:58:54 13 you saw Mr. Biden sign the form and date it? What happened  
08:58:59 14 next is Jason said. So you want to say how did Jason get  
08:59:06 15 involved?

08:59:07 16 MR. LOWELL: Yes.

08:59:11 17 MR. HINES: Okay.

08:59:11 18 THE COURT: You can say you said that after you  
08:59:14 19 saw Mr. Biden sign the form and date it, you said that the  
08:59:18 20 thing that happened next was Jason said we would need with  
08:59:23 21 the passport another form of identification. How did Jason  
08:59:27 22 get involved? And then did you see another form of  
08:59:32 23 identification?

08:59:34 24 MR. LOWELL: And not be able to say to him what  
08:59:37 25 did you say to Jason, if anything? I mean, that's the

08:59:41 1 natural in between question.

08:59:42 2 THE COURT: I mean, how did Jason get involved,  
08:59:45 3 I guess if he says Jason was standing there, did you say  
08:59:49 4 anything, no, and if he says I went into the back and talked  
08:59:52 5 to Jason, I guess you can say what did you say to Jason.

08:59:56 6 MR. LOWELL: Okay. That was one issue.

08:59:57 7 THE COURT: Okay.

08:59:58 8 MR. LOWELL: The second issue is the government  
09:00:00 9 said that they had six witnesses, they think they'll finish  
09:00:04 10 at the end of the day or before, last night we told him who  
09:00:08 11 our witnesses will be, we summoned them, they have to come,  
09:00:13 12 and their lawyers have to come. They're all coming this  
09:00:15 13 afternoon, if they end up at 3 o'clock or 3:30, I don't have  
09:00:20 14 them yet, they'll be here first thing in the morning, if  
09:00:25 15 that happens, I ask that we break them here, we summoned  
09:00:30 16 them yesterday, they're getting here as soon as they can.

09:00:33 17 THE COURT: Let's see where we are, do you have  
09:00:35 18 any problem with that, you may have a problem with  
09:00:37 19 witnesses, and maybe that will give us time to deal with it  
09:00:40 20 if you did.

09:00:41 21 MR. HINES: I understand one of the witnesses  
09:00:42 22 were represented, I don't know, you referenced multiple  
09:00:46 23 lawyers, there will be witnesses available based on my  
09:00:49 24 understanding as early as early afternoon.

09:00:52 25 MR. LOWELL: No, I don't know that anybody is

09:00:54 1 available, they're coming this afternoon or this evening,  
09:00:57 2 they're coming from different places so they're getting here  
09:01:00 3 when they get here, and we did that last night based on the  
09:01:05 4 government's schedule.

09:01:05 5 THE COURT: Keep me informed.

09:01:07 6 MR. LOWELL: On scheduling, when the government  
09:01:09 7 rests, Your Honor, we have a written Rule 29 motion on three  
09:01:12 8 topics. One would be the topic that you reserved on the  
09:01:15 9 issue of unconstitutional based on vagueness. The second  
09:01:20 10 will be an issue we found in 922(g), which has been amended,  
09:01:26 11 so we have to address the issue that it doesn't exist at the  
09:01:29 12 time of the -- of our trial. I don't want to say more about  
09:01:34 13 it because I'll say it wrong, but that's the second. And  
09:01:37 14 the third would be the issue sort of dovetails with the  
09:01:40 15 first on the sufficiency of the evidence on the key issue.  
09:01:44 16 But all of them are in the works and all of them have been  
09:01:47 17 filed at the end of the day as soon as the government rests.  
09:01:49 18 And obviously you'll want to see it and the government will  
09:01:53 19 want a chance to respond, that's another good reason if we  
09:01:56 20 break we would be able to do that and see what happens from  
09:01:59 21 there.

09:01:59 22 THE COURT: If you think I can read your motion,  
09:02:02 23 the government will have a chance to read your motion,  
09:02:05 24 respond to your motion, and I will have a chance to  
09:02:08 25 carefully review that and rule by tomorrow morning, you have

09:02:12 1 an elevated view of my abilities.

09:02:15 2 So I appreciate that, but it's not going to  
09:02:20 3 happen. But I will take a look at it when it's filed.

09:02:22 4 MR. LOWELL: What I really wanted to do is let  
09:02:26 5 everybody know that, so I don't know how that effects the  
09:02:30 6 scheduling, usually you argue that before you present the  
09:02:33 7 case so I wanted to let you know that was in the works.

09:02:35 8 MR. HINES: Your Honor --

09:02:36 9 THE COURT: And I understand what you're saying,  
09:02:38 10 but it's also so -- I'm not going to waste the jurors time  
09:02:43 11 with making them sit around and wait for a day or two while  
09:02:46 12 I figure that out. So it may be that I just need to  
09:02:50 13 reserve.

09:02:51 14 MR. LOWELL: Right. And that's fine. I just  
09:02:53 15 needed to give everybody notice that that was the case and I  
09:02:56 16 expected that that could be one possibility.

09:02:59 17 THE COURT: Okay. All right. Anything else?

09:03:02 18 MR. WISE: Your Honor, we have an objection to  
09:03:03 19 an exhibit that we got late last night that the defense  
09:03:07 20 intends to use with our second witness today, Ms. Hallie  
09:03:11 21 Biden. It's Defense Exhibit 16A, I don't know if the Court  
09:03:16 22 has been provided with that.

09:03:17 23 THE COURT: Let me check.

09:03:24 24 Yes, I do have that.

09:03:26 25 MR. WISE: The first issue is globally, we got



09:03:30 1 this at 11:07 last night that actually provided the sources  
09:03:33 2 for these messages. We have been asking for it since Monday  
09:03:37 3 when they sent it to us. We of course provided our summary  
09:03:42 4 chart months ago. The whole point of the rule, 1006 to  
09:03:45 5 allow each side to check the accuracy of the statements that  
09:03:48 6 are in the summary chart. So we think the whole thing  
09:03:52 7 should be kept out because we haven't had the time and they  
09:03:55 8 haven't followed the rules to give us the time. And it's  
09:03:58 9 eight-pages long. And what we did on our summary chart is  
09:04:03 10 we told them page numbers in an extraction report which  
09:04:08 11 makes it something you can actually find. Here they have  
09:04:10 12 given us what appears to be the same, you know, it looks  
09:04:15 13 like every source is the same file path. Which doesn't  
09:04:21 14 actually tell us really thinking. And candidly I was in a  
09:04:26 15 hotel room at 11:07 last night, so wherever this was, I  
09:04:29 16 wasn't in a position to go hunting for it, even assuming I  
09:04:33 17 could.

09:04:34 18 The other issue it's full of inadmissible  
09:04:37 19 hearsay. Our first objection is it's late, they didn't  
09:04:40 20 follow 1006, it shouldn't come in, the second is nearly  
09:04:44 21 everything they wanted to do other than a couple of message  
09:04:47 22 strings that are on our chart, which come in because under  
09:04:51 23 801(d) (2) their opposing party statements offered against  
09:04:54 24 that party --

09:04:56 25 THE COURT: It's different if the defendant

09:04:58 1 wants to put the statements in, it's one thing if you do,  
09:05:00 2 because they're admissions, but he can't put them in.

09:05:04 3 MR. HINES: Exactly, and some of them are quite  
09:05:06 4 frankly quite salacious, we can talk about them in open  
09:05:10 5 court or come to side-bar so I can point those out. I think  
09:05:15 6 row number 21, for instance.

09:05:32 7 MR. WISE: As I said, most of them, I counted  
09:05:34 8 four on page 1, lines 2, 3, 4 and 5, there are strings that  
09:05:40 9 contain admissions that are -- we were offering so we  
09:05:44 10 obviously don't have an objection to that, and then 11, 12,  
09:05:48 11 13, and 14 are also part of strings that have admissions.  
09:05:52 12 And then 20 --

09:05:53 13 THE COURT: I'm sorry, tell me again, there are  
09:05:55 14 so many numbers on here. Okay. So first you have the  
09:06:00 15 hearsay and your hearsay is the rows where it's something  
09:06:06 16 that was said by the defendant, not the issue where it was  
09:06:09 17 said by Ms. Biden because those aren't hearsay if she's on  
09:06:15 18 the stand and they're asking her questions, right?

09:06:18 19 MR. HINES: So it's still hearsay even if she's  
09:06:22 20 on the stand because it's an out of court statement that she  
09:06:25 21 made for the truth of the matter asserted, they got hearsay  
09:06:29 22 problems with her and they got hearsay problems with him.  
09:06:32 23 So number one, for instance, is a hearsay statement of  
09:06:35 24 Ms. Biden, first row, that there is no exception for.

09:06:41 25 Same thing with it picks up, as I said, Row 2,

09:06:46 1 3, and 4 on their chart --

09:06:48 2 THE COURT: So you're saying, they could use  
09:06:51 3 this for impeachment if they asked her, for example, if they  
09:06:55 4 were having problems in their relationship at that point and  
09:06:57 5 she said no.

09:06:58 6 MR. HINES: Potentially, depending on how they  
09:07:02 7 set it up.

09:07:03 8 THE COURT: Do you have a response?

09:07:04 9 MR. LOWELL: Yes, of course. So as to the first  
09:07:07 10 one, Mr. Wise would indicate that the first time he saw  
09:07:10 11 these texts was whenever he just said. Actually, over the  
09:07:14 12 last few days we have back and forth, they keep asking us  
09:07:17 13 for source material and we keep trying to provide it.

09:07:20 14 THE COURT: What are these sources that they all  
09:07:22 15 have exactly the same number?

09:07:24 16 MR. LOWELL: I would like my colleague to  
09:07:26 17 address the source if I could have that happen.

09:07:29 18 MR. WISE: I didn't say we saw the text for the  
09:07:32 19 first time last night, I said we saw the source.

09:07:34 20 THE COURT: I understand, you were trying to  
09:07:36 21 check the accuracy and authenticity.

09:07:38 22 MR. LOWELL: Again, one of the things I asked  
09:07:41 23 Agent Jensen was whether or not that material, the Cloud  
09:07:44 24 material, and the laptop was in the condition that they got  
09:07:47 25 it and whether they provided it to us in discovery and

09:07:49 1 whether it was the same material and she said it was. That  
09:07:52 2 is the source, they have it and they sent it to us, we sent  
09:07:55 3 it back to them, but I'll have Mr. Kolansky address the  
09:07:58 4 source for it.

09:08:00 5 MR. WISE: I don't think they sent it back to  
09:08:02 6 us. But again, if you look at our chart, we literally have  
09:08:05 7 page 1001, I'm looking at a message 86, page 1412, so that  
09:08:11 8 they could go back exactly to where this message comes from  
09:08:15 9 and it was provided months ago.

09:08:17 10 MR. KOLANSKY: Your Honor, these messages that  
09:08:19 11 start on October the 11th, they're extracted from the hard  
09:08:23 12 drive that we received in discovery from the government. It  
09:08:26 13 was a single hard drive with essentially, if you think about  
09:08:29 14 it --

09:08:30 15 THE COURT: So was there a way for you to say  
09:08:33 16 it's on page whatever of the hard drive?

09:08:37 17 MR. KOLANSKY: There is not, Your Honor.

09:08:38 18 THE COURT: How did they do it?

09:08:40 19 MR. KOLANSKY: I don't know how they do it, I  
09:08:42 20 don't know what software they used.

09:08:44 21 THE COURT: How did you give them a specific  
09:08:46 22 place to go and he's saying you can't.

09:08:48 23 MR. WISE: We gave it to them both ways, they  
09:08:51 24 asked for the raw data and then we also gave them these  
09:08:55 25 extraction reports that reflect all of the messages that we

09:08:59 1 are using with page numbers and all of the messages they're  
09:09:01 2 using, they're just somewhere in these 18,000 pages and they  
09:09:06 3 won't tell us where.

09:09:07 4 THE COURT: You're assuming they're somewhere in  
09:09:09 5 these 18,000 pages, you don't know?

09:09:11 6 MR. HINES: They keep saying they're from the  
09:09:14 7 same data, so that means they should be on the extraction  
09:09:17 8 reports and the extraction reports are pages that are--

09:09:21 9 THE COURT: Can you get them that information?

09:09:24 10 MR. KOLANSKY: We can get them the information  
09:09:26 11 based on an extraction report that we created using an  
09:09:29 12 extraction software we have. It's not going to match --

09:09:32 13 THE COURT: Did they give you an extraction --

09:09:36 14 MR. WISE: We gave them an extraction report,  
09:09:39 15 they did not give us whatever he's referring to that has  
09:09:42 16 page numbers that we can look at.

09:09:43 17 THE COURT: So you gave them an extraction  
09:09:45 18 report, the same extraction report you used to come up with  
09:09:48 19 page numbers?

09:09:49 20 MR. WISE: Exactly.

09:09:50 21 THE COURT: Can you use that extraction report  
09:09:53 22 and give them page numbers?

09:09:54 23 MR. KOLANSKY: When I searched these messages  
09:09:56 24 last night, Your Honor, for each of the 42 rows, I did not  
09:10:00 25 find these messages in the extraction report that they're

09:10:04 1 referring to.

09:10:05 2 MR. WISE: So they have discovery, an extraction  
09:10:06 3 report that they're relying on that they haven't give us  
09:10:09 4 which is the underlying material that supports under 1006  
09:10:13 5 the summary report and they should have given it to us.

09:10:15 6 MR. KOLANSKY: Your Honor, we're happy to  
09:10:17 7 provide the extraction report that we generated.

09:10:20 8 THE COURT: Why are you doing that today when  
09:10:22 9 you expect to use the exhibit today?

09:10:25 10 MR. KOLANSKY: It's an extraction report that we  
09:10:27 11 used in order to thread the messages so that they're  
09:10:29 12 readable.

09:10:31 13 THE COURT: Yes, but -- what I'm confused about  
09:10:34 14 is you're not giving them the information in the same way  
09:10:36 15 that they gave it to you. You're saying -- he's saying  
09:10:40 16 look, tell us where it is, we gave you an extraction report  
09:10:43 17 and you're telling me but it's not in, it's something new  
09:10:47 18 that wasn't in the government's extraction report and you  
09:10:49 19 can't tell us where it is?

09:10:53 20 MR. KOLANSKY: Let me try to rephrase it, maybe  
09:10:55 21 I'm mischaracterizing it. When we --

09:10:58 22 THE COURT: Was it in the -- so the government  
09:11:00 23 gave you an extraction report, you're telling me these  
09:11:04 24 messages you want to use were not in there.

09:11:06 25 MR. KOLANSKY: Correct. They were in something

09:11:08 1 else.

09:11:08 2 MR. LOWELL: They were in a separate sub-data,  
09:11:08 3 the extraction reports were from the iCloud, these messages  
09:11:14 4 were derived not from the source file, but from Macintosh  
09:11:16 5 HD, Macintosh hard drive, so there is two worlds of  
09:11:20 6 discovery, iCloud, and those were the extraction reports,  
09:11:23 7 and then material from the hard drive, which we extracted  
09:11:28 8 ourselves based on the forensic images they provided.

09:11:32 9 THE COURT: Did you give them an extraction from  
09:11:33 10 the hard drive?

09:11:34 11 MR. WISE: Yes, from the laptop. There is an  
09:11:37 12 extraction-- that's why if you remember when Agent Jensen  
09:11:40 13 was testifying, the format changed --

09:11:42 14 THE COURT: So these are messages that you're  
09:11:44 15 using from the laptop, not from the -- not from the iCloud.

09:11:50 16 MR. KOLANSKY: They're from the hard drive that  
09:11:53 17 we received from the government.

09:11:54 18 THE COURT: The hard drive image is from the  
09:11:57 19 laptop. You guys are talking, I got laptops and hard  
09:12:00 20 drives, and I don't even know what else I got, iClouds, oh  
09:12:04 21 my.

09:12:05 22 MR. KOLANSKY: Yes, that's right.

09:12:06 23 THE COURT: So the hard drive, though, is the  
09:12:09 24 hard drive that correlates with the laptop.

09:12:13 25 MR. KOLANSKY: Yes, Your Honor.

09:12:13 1 THE COURT: So these are messages you want to  
09:12:16 2 rely on from the laptop that are not in the iCloud?

09:12:20 3 MR. KOLANSKY: That's correct, Your Honor.

09:12:21 4 THE COURT: Okay. And you're saying, Mr. Wise,  
09:12:23 5 that you gave them extraction files from the hard  
09:12:29 6 drive/laptop.

09:12:30 7 MR. WISE: Exactly.

09:12:31 8 THE COURT: And why didn't you give them from  
09:12:33 9 that extraction file, the page numbers?

09:12:37 10 MR. KOLANSKY: I have not seen that extraction  
09:12:39 11 report, Your Honor.

09:12:40 12 MR. WISE: We provided it in discovery. It was  
09:12:42 13 -- that's how we made the chart, I mean, which they've had  
09:12:45 14 for months. So if they looked at that chart and said wait a  
09:12:49 15 minute this says laptop, we don't have an extraction report  
09:12:52 16 from the laptop, where are you getting this from, we would  
09:12:55 17 have expected to hear that months ago. There is clearly an  
09:12:58 18 extraction report, that's what the 1006 reflects and we  
09:13:02 19 reattached it when we provided our expert discovery.

09:13:05 20 MR. LOWELL: One point on that, by the way, if  
09:13:08 21 we're talking about authenticity, which I think is half the  
09:13:13 22 issue, we talked to the government and have the stipulation  
09:13:16 23 about it being authentic. These messages that we tried to  
09:13:20 24 put together in this fashion, we could take more time and  
09:13:24 25 then what we could do is printout every one individually and



09:13:27 1 ask the witness did you send it. That will issue into the  
09:13:32 2 question they raised about asking a witness on the stand did  
09:13:34 3 she do something and send something. That is not hearsay as  
09:13:38 4 to the witness, she is in court to be examined. I can ask  
09:13:41 5 her, usually, did you on that moment send Mr. Biden a text.  
09:13:46 6 What did the text say. If she says she knows, fine, if she  
09:13:51 7 says she doesn't, I can refresh her recollection.

09:13:53 8 THE COURT: With the text?

09:13:54 9 MR. LOWELL: With the text itself. If she then  
09:13:56 10 states that it is not something that refreshes her  
09:13:59 11 recollection, then it is a prior recorded, you know, it fits  
09:14:03 12 into the issue of something that was already in existence.  
09:14:06 13 But the idea that you can't ask a witness on the stand  
09:14:09 14 whether that witness said something or wrote something and  
09:14:12 15 that's the hearsay, it is not hearsay at that moment. It is  
09:14:16 16 something that was existing before, but you can ask, when  
09:14:20 17 and if Mr. Biden took the stand and he was testifying, he  
09:14:24 18 would be able to be asked about did you receive a text from  
09:14:28 19 Mrs. Biden and how did you respond and why. So you can't  
09:14:31 20 have half the story the way they have not had half the story  
09:14:35 21 when they are going back and forth.

09:14:38 22 THE COURT: Well, no, but you can't put in  
09:14:40 23 evidence that is hearsay. You can't put in statements from  
09:14:43 24 the defendant when she's on the stand.

09:14:47 25 MR. LOWELL: Not for the truth necessarily. In

09:14:49 1 other words -- well, first of all --

09:14:52 2 THE COURT: Well, I mean --

09:14:53 3 MR. LOWELL: I don't need to seek its admission  
09:14:56 4 because if she says this is what I want you to do, it's what  
09:14:59 5 I want you to do necessarily, but it certainly reflects the  
09:15:02 6 state of mind that they were both in at the period of time  
09:15:05 7 that they were conversing, so it's that exception as well.  
09:15:08 8 But if you're saying that if a witness is on the stand and  
09:15:11 9 you can't ask the witness did you call Mr. Biden, what did  
09:15:15 10 you say to Mr. Biden.

09:15:16 11 THE COURT: That's very different than what did  
09:15:18 12 he say to you.

09:15:19 13 MR. LOWELL: I get that, I understand that.

09:15:20 14 THE COURT: But you have that in this --

09:15:23 15 MR. LOWELL: You often -- I'm sorry, often in  
09:15:26 16 context, both sides will come in to put it in context, I  
09:15:30 17 understand and I don't need to ask her what Mr. Biden wrote  
09:15:33 18 back, I can ask her, though, I think, what did you say to  
09:15:36 19 him, what did you write. In terms of the salacious material  
09:15:40 20 we provided it to them in that form but certainly there are  
09:15:44 21 redactions we wanted to make, I wanted them to see the full  
09:15:47 22 thing in terms of, for example, the one they said. I  
09:15:50 23 understand that Ms. Biden, from me can't be asked what did  
09:15:55 24 Hunter say. I can, though, I think, say what did you say to  
09:15:59 25 him. And especially because some of these are contextually

09:16:02 1 in state of mind. I mean, if she wrote him and said today  
09:16:06 2 it's raining, when it's not raining, I'm not putting it in  
09:16:10 3 for the truth that it was raining but it does have bearing  
09:16:13 4 on what she was saying to him and what his reaction would  
09:16:15 5 be.

09:16:16 6 So there is -- I have never been in a situation  
09:16:19 7 where you can't ask a witness did you call, you said I could  
09:16:22 8 do that. Did you say something. You can say that. There  
09:16:25 9 is no difference in a text, did you write him, what did you  
09:16:28 10 say? And then that's where that ends in terms of not what  
09:16:33 11 Mr. Biden said back.

09:16:34 12 MR. WISE: So there is a couple of issues with  
09:16:36 13 Mr. Lowell has argued. First of all, the issue with the  
09:16:39 14 summary chart is --

09:16:40 15 THE COURT: Wait, I was actually going to ask  
09:16:42 16 you that. Let's say I say no to the summary chart because  
09:16:46 17 they didn't provide you with the information that they  
09:16:48 18 should have provided you in a timely way. Mr. Lowell says,  
09:16:51 19 well, okay, then I can just pull out -- you know that they  
09:16:56 20 have the messages, can they just pull out a message and ask  
09:17:00 21 her about it? Not from your other objections about doing  
09:17:06 22 that, but is that appropriate?

09:17:08 23 MR. WISE: So no, it's still a text message she  
09:17:11 24 wrote, is an out of court statement.

09:17:13 25 THE COURT: No. No. I'm sorry, I'll let you

09:17:15 1 make that argument about the hearsay. My point is does that  
09:17:18 2 get us through the objection that they didn't give you the  
09:17:23 3 information that you should have had in a timely way.

09:17:26 4 MR. WISE: There is sort of two things with  
09:17:29 5 that. We didn't get everything that's on that laptop. It  
09:17:34 6 went through a filter review. So we may or may not have.  
09:17:38 7 They have the whole set. So first thing --

09:17:40 8 THE COURT: Filter review from whom?

09:17:43 9 MR. WISE: A separate team that we have no  
09:17:45 10 access, we're walled off for, it's in the search warrant,  
09:17:50 11 that is the protocol that would be followed. The first  
09:17:53 12 thing is whatever they would want to show her, they should  
09:17:57 13 give us, we should see it so we know, and we're not going to  
09:18:00 14 be able to sitting here sort of find it on the fly.

09:18:03 15 If the question is authenticity, sure a witness  
09:18:08 16 can testify that, you know, this is a text I sent or an  
09:18:11 17 e-mail I sent and that gets them through the authenticity  
09:18:15 18 gate, but it doesn't necessarily get them through the  
09:18:18 19 admissibility gate and the admissibility gate is often  
09:18:22 20 things like is it a business record, that's how it comes in,  
09:18:24 21 is it some other exception --

09:18:26 22 THE COURT: Well he's saying it goes to state of  
09:18:28 23 mind.

09:18:29 24 MR. WISE: A lot of them don't. A lot of them  
09:18:31 25 are, you know, I mean, I'll just start at the back. "Are

09:18:37 1 you here. I'll see you inside, I'm in the parking lot but I  
09:18:41 2 feel comfortable about going in right now, I will wait here  
09:18:45 3 for you. Come in, F you, I came because it was important  
09:18:49 4 for me to show dad that I could show up."

09:18:51 5 MR. LOWELL: I'm sorry to interrupt, that's a  
09:18:53 6 Hunter one.

09:18:54 7 MR. WISE: It's the same issue with all of  
09:18:56 8 these, these are out of court statements being offered for  
09:18:59 9 the truth of the matter asserted that they're saying these  
09:19:01 10 things, that these things reflect where they are or what  
09:19:04 11 they're doing. It's not to say, oh we want to impeach that  
09:19:07 12 she said it's raining and we know it's not raining, they  
09:19:09 13 want to push through, the defendant can take the stand and  
09:19:13 14 say I was here or I did this or I said this, but they can't  
09:19:16 15 use as proxies out of court statements he made.

09:19:19 16 MR. LOWELL: We agree about that.

09:19:22 17 THE COURT: We are in agreement, they cannot use  
09:19:24 18 on his statements. Okay. Those are hearsay.

09:19:27 19 MR. LOWELL: Right.

09:19:27 20 THE COURT: If they want to get those in, they  
09:19:29 21 have to do it a different way.

09:19:33 22 With respect to this witness, are you saying  
09:19:40 23 that they would have to say -- I mean, these statements as I  
09:19:46 24 read them suggest that there were issues in the relationship  
09:19:52 25 at that time.

09:19:53 1 MR. WISE: Yes, I agree.

09:19:55 2 THE COURT: And if you're saying that they  
09:20:03 3 should really be using those for impeachment, if she says,  
09:20:07 4 gosh, we were happier than we have ever been, everything was  
09:20:11 5 great, then you could impeach and say they weren't really.

09:20:15 6 MR. WISE: Exactly.

09:20:16 7 THE COURT: But if she says no, things were  
09:20:18 8 really bad, then that's fine.

09:20:20 9 MR. WISE: Exactly.

09:20:21 10 THE COURT: If Mr. Lowell said was one of the  
09:20:25 11 issues you were worried about infidelity in the relationship  
09:20:29 12 and she says no, he can use those to say you did have  
09:20:36 13 concerns.

09:20:36 14 MR. WISE: Right, because then there is a prior  
09:20:39 15 inconsistent statement, that gets them through the  
09:20:41 16 admissibility gate. But if she says yeah, we were fighting,  
09:20:45 17 which is what they seem to be getting at that, they were  
09:20:48 18 fighting, they were accusing each other of things, I don't  
09:20:52 19 know how deeply we need to get into that, there is a 403  
09:20:55 20 issue at some point, but if she said as Your Honor said  
09:20:58 21 everything was great, then potentially, that allows for one  
09:21:01 22 of these statements to come in as a prior inconsistent  
09:21:03 23 statement because the rules provide for that.

09:21:05 24 THE COURT: What if she says as Mr. Lowell says,  
09:21:08 25 back around the time in October of 2018, were you guys in a

09:21:13 1 good place, and she says I don't remember. And he says well  
09:21:18 2 let me show you some things to refresh your recollection.  
09:21:21 3 That's okay?

09:21:22 4 MR. WISE: Right. Provided one, it doesn't go  
09:21:24 5 up on the screen, she looks at it herself, and the key  
09:21:28 6 question is does this refresh your recollection, and if she  
09:21:30 7 says yes, then he can go back to asking her okay, what was  
09:21:34 8 the state of your relationship or whatever, if she says no,  
09:21:36 9 the statement itself doesn't come in because it's not like a  
09:21:40 10 grand jury transcript where it's under oath, it's  
09:21:44 11 inadmissible, the statement itself is inadmissible other  
09:21:47 12 than if its a prior inconsistent statement or if it  
09:21:50 13 refreshes recollection.

09:21:51 14 THE COURT: What about if you're putting it in  
09:21:54 15 not for the truth but for her state of mind that she was  
09:22:00 16 upset.

09:22:02 17 MR. WISE: So her state of mind isn't relevant  
09:22:05 18 right, it's the defendant's state of mind. The elements are  
09:22:09 19 what was he knowing, not what was in her state of mind. So  
09:22:12 20 the hearsay exception for state of mind evidence still has  
09:22:15 21 to get through the relevancy test which is, is it a fact or  
09:22:19 22 consequence that -- will this be a fact or consequence more  
09:22:24 23 or less probable. What she's thinking isn't, it's simply  
09:22:28 24 not relevant whether she believes what he's saying or not.  
09:22:31 25 You know, what their -- is she paranoid, is she saying

09:22:37 1 things because she doesn't mean them because she wants to  
09:22:39 2 get back at him, whatever, none of that matters. They can  
09:22:43 3 explore a little bit in terms of bias and motive, about the  
09:22:46 4 rule for state of mind for, the hearsay exception for  
09:22:51 5 statements doesn't relate to a witness where the witness's  
09:22:55 6 state of mind is not an element of defense.

09:22:58 7 MR. LOWELL: I can respond in a moment.

09:23:01 8 THE COURT: Please.

09:23:01 9 MR. LOWELL: Okay. I heard Mr. Wise, in my mind  
09:23:05 10 he's jumbled two things. State of mind is relevant to any  
09:23:09 11 witness if that person is testifying. It is relevant for  
09:23:13 12 any number of reasons that Your Honor has asked one about,  
09:23:18 13 Mr. Wise is trying to cabin this either into a refresh  
09:23:23 14 recollection, or saying it's hearsay for it's the truth of  
09:23:26 15 the matter.

09:23:26 16 But if Ms. Biden is writing Mr. Biden, Ms. Biden  
09:23:32 17 is writing Mr. Biden and saying where are you, where are  
09:23:35 18 you, where are you, that does reflect what's happening at  
09:23:38 19 that moment, especially because I understand her testimony  
09:23:41 20 is going to be that he was with her on a particular time  
09:23:46 21 when her writing to him and saying where are you, where are  
09:23:49 22 you, will reflect that that's not possible. Or she's either  
09:23:54 23 not being accurate on the stand or she's not being accurate  
09:23:57 24 where she's saying --

09:23:58 25 THE COURT: Then you can use that to impeach or



09:24:01 1 to refresh her recollection.

09:24:03 2 MR. LOWELL: That's what I'm saying, there are  
09:24:04 3 various parts of what --

09:24:06 4 THE COURT: So I think it's a difference between  
09:24:09 5 -- I'm sorry, I cut you off, I asked you not to cut me off,  
09:24:13 6 so I apologize. But I think it's a difference between  
09:24:15 7 whether you use it affirmatively or whether she testifies to  
09:24:18 8 something inconsistently and you then use it to impeach or  
09:24:22 9 she doesn't remember what she's doing and you use it to  
09:24:25 10 refresh her recollection.

09:24:26 11 MR. LOWELL: I think that's right. I think each  
09:24:28 12 one can be for a reason and the reason could be either a  
09:24:32 13 state of mind that would be relevant as to the nature of  
09:24:35 14 their relationship at a moment, it would be for the  
09:24:38 15 possibility of again refreshing and if she says she did say  
09:24:42 16 this and she did write him six times and say where are you,  
09:24:46 17 where are you, then I think that's established. If she says  
09:24:49 18 something that's inconsistent with what a text says, then  
09:24:53 19 its impeachment and I think that's right. And the reason  
09:24:56 20 that we've struggled to try to get them in a very set of  
09:24:59 21 data where you can find things from the reason that Mr. Wise  
09:25:02 22 said, for example, that it went through a filter team, now  
09:25:05 23 I'm understanding that, but I don't know why that would  
09:25:09 24 eliminate these kind of texts just to save time. We can  
09:25:13 25 print each one of these separately and use them separately,

09:25:16 1 and that will be a back and forth up to the witness stand or  
09:25:22 2 not, and so we thought we would try it this way.

09:25:25 3 THE COURT: So I'm going to sustain the  
09:25:27 4 objection as to the summary chart, I think that the summary  
09:25:30 5 chart does include hearsay certainly as to the statements  
09:25:33 6 that Mr. Biden made to Ms. Biden. So the summary chart is  
09:25:39 7 out.

09:25:40 8 As to the texts from Ms. Biden to Mr. Biden, I  
09:25:48 9 think we'll have to play that one at a time. I do think  
09:25:51 10 that they are hearsay, and the question is whether they can  
09:25:55 11 be used in some way to refresh her recollection, to impeach  
09:26:01 12 her if she says something inconsistently. And as to her  
09:26:07 13 state of mind, I don't think her state of mind is  
09:26:10 14 necessarily relevant to the issue in this case whereas her  
09:26:14 15 state of mind I guess to the extent it goes to bias or  
09:26:17 16 something like that, may come into play, so we're going to  
09:26:21 17 have to take those issues one at a time.

09:26:24 18 MR. LOWELL: Understand. I will still have the  
09:26:27 19 summary chart up there, for the purposes of when it gets to  
09:26:31 20 refreshing, that would just be clear, or impeachment, that  
09:26:35 21 would be easier for them, but we will print out the  
09:26:37 22 individuals ones as well.

09:26:38 23 MR. WISE: I seen stuff in the summary chart  
09:26:41 24 where there are messages and I can recognize them where  
09:26:43 25 they're not accurate. That's the problem, if you put

09:26:46 1 something in front of her, she's not going to remember  
09:26:51 2 precise wording.

09:26:51 3 THE COURT: All right. So you have to show her  
09:26:53 4 the message and provide those messages to you.

09:26:56 5 MR. WISE: And then we need something, whatever  
09:26:59 6 they're going to show her, we need to see it too.

09:27:02 7 THE COURT: You need to see it from their  
09:27:03 8 extraction file.

09:27:07 9 MR. LOWELL: So in the meantime when we're  
09:27:08 10 starting this morning --

09:27:09 11 THE COURT: My guess is that you're not the one  
09:27:13 12 who is creating an extraction file?

09:27:14 13 MR. LOWELL: You probably got that right.

09:27:16 14 THE COURT: You do that in your spare time.

09:27:18 15 MR. LOWELL: Yes. So we will try to get that  
09:27:20 16 done quickly and figure that out. Again, not that I feel  
09:27:23 17 like I need to apologize, but we have been going back and  
09:27:28 18 forth. The data is incredibly dense and we have gotten it  
09:27:31 19 from the government in various ways. And now I'm hearing  
09:27:36 20 that they're saying in their extraction report or what they  
09:27:39 21 did, there may be things missing, well we have them from  
09:27:42 22 them, so I don't know how things we put here could be  
09:27:45 23 missing because we didn't invent this, we got it from them.

09:27:50 24 THE COURT: So anything -- maybe I should  
09:27:51 25 address this to your colleague. So anything that you have

09:27:55 1 gotten or put on this chart is something you got from the  
09:27:58 2 government, not from any other source?

09:28:00 3 MR. KOLANSKY: That's correct, Your Honor, and I  
09:28:02 4 proffer that and it comes directly from the government and  
09:28:05 5 that is why I endeavored to be as precise as possible to the  
09:28:09 6 original source file path they can stick it on the hard  
09:28:13 7 drive and get exactly to the folder where that message is  
09:28:16 8 derived from on the hard drive we received.

09:28:19 9 MR. LOWELL: Like last night I think, or  
09:28:22 10 yesterday afternoon, whenever we were able to go back, we  
09:28:25 11 provided them with the media that they can go and do exactly  
09:28:28 12 what Mr. Kolansky just said and check it. Now if they chose  
09:28:32 13 not to, I'm sorry but we gave it to them because that's the  
09:28:35 14 best you can do with the data they gave us.

09:28:37 15 THE COURT: All right.

09:28:38 16 MR. WISE: No, no, we didn't get any media, I  
09:28:41 17 got, 11:07, I saw something on my phone that has this path  
09:28:46 18 name that I don't know what it is.

09:28:48 19 MR. LOWELL: I'm sorry, we gave them the file  
09:28:51 20 path one by one of something they gave us.

09:28:54 21 MR. WISE: Yeah.

09:28:55 22 THE COURT: The file path one by one, but the  
09:28:58 23 file path is identical.

09:29:00 24 MR. HINES: It's filtered, we can't see that but  
09:29:05 25 we can't -- and they know that from the search warrant, it's

09:29:08 1 in the search warrant.

09:29:09 2 THE COURT: So you're limited in what you can do  
09:29:14 3 because you're trying to protect rights using only the  
09:29:17 4 information allowed from the search warrant.

09:29:19 5 MR. WISE: Exactly.

09:29:20 6 MR. LOWELL: What I'm learning for the first  
09:29:22 7 time, understand this, they have provided us in discovery  
09:29:27 8 things that they're saying that the investigative team does  
09:29:30 9 not have. So I didn't realize that, I thought it was a one  
09:29:33 10 to one match, you would have assumed that otherwise I don't  
09:29:37 11 know why they would have sent it to me, it's not  
09:29:40 12 attorney/client materials we're talking about, it's  
09:29:42 13 conversations between Mr. and Ms. Biden, so I don't  
09:29:45 14 understand that.

09:29:46 15 MR. WISE: It's Rule 16, it's his statement, we  
09:29:49 16 have to turn it over, if it's privileged, we don't get to  
09:29:52 17 see it if it goes through a filter, this is not anything  
09:29:57 18 new, the search warrant says it went through a filter.

09:29:59 19 THE COURT: He's saying this is conversation  
09:30:01 20 between Mr. Biden and Ms. Biden, there is no arguable  
09:30:04 21 privilege here.

09:30:05 22 MR. WISE: Again, we don't know what we don't  
09:30:08 23 know, when they say we got it, we don't have it.

09:30:11 24 THE COURT: So there is a question as to the  
09:30:14 25 authenticity accuracy of these statements, if you can

09:30:17 1 provide the extraction file whatever, so they can find that  
09:30:21 2 and confirm that, then we can deal with that objection and  
09:30:25 3 get through, you can use -- deal with them on a one by one  
09:30:30 4 basis. All right. Anything else?

09:30:31 5 MR. LOWELL: And one last piece on that so I'm  
09:30:34 6 understanding, please.

09:30:35 7 So if there is a filter team, there is no basis  
09:30:39 8 for them to filter out to the government a conversation  
09:30:42 9 between Hallie Biden and Hunter Biden. So how that would  
09:30:46 10 not get back into their possession when it got into ours is  
09:30:50 11 still something I don't understand.

09:30:52 12 THE COURT: So it may be, and I think Mr. Wise  
09:30:55 13 would say, he very well may have it, but he has no idea if  
09:30:59 14 he has it based on what you gave him. So I'm saying give  
09:31:03 15 him something so that he can look at it and say oh, yeah, I  
09:31:07 16 have it. He's just saying look, I think he's trying to make  
09:31:10 17 the record, I don't have everything. Some of the stuff  
09:31:13 18 that's in here, I don't remember seeing. So I don't know if  
09:31:16 19 it's right or wrong. And so we're saying, okay, give him  
09:31:21 20 the stuff to show so that he can decide if he has an  
09:31:25 21 objection.

09:31:25 22 MR. LOWELL: One other thing so that we can do  
09:31:27 23 that. On those texts which you phrased as salacious, I  
09:31:32 24 wanted to make sure you saw everything, but those phrases we  
09:31:35 25 can redact out and I'll show them how we do that.

09:31:40 1 MR. WISE: We don't have a redacted set.

09:31:43 2 THE COURT: I don't know what the point of  
09:31:44 3 having that text is if you take that out because there is  
09:31:47 4 nothing there other than --

09:31:49 5 MR. LOWELL: Well, no, I'm sorry, I didn't mean  
09:31:51 6 to interrupt you.

09:31:52 7 THE COURT: 21, so what do you take one word out  
09:31:56 8 and then it doesn't really mean anything.

09:32:00 9 MR. LOWELL: For that one, for example, will you  
09:32:02 10 come home, then you redact so we can, blah, blah, blah  
09:32:07 11 before I go. That matters, it matters because of the date.  
09:32:11 12 It matters because it indicates that he is not there. It  
09:32:17 13 matters because of that. The relevance is her testimony of  
09:32:21 14 what happened that morning and where she was and where he  
09:32:23 15 was. She's asking him to come home. The natural inference,  
09:32:29 16 not even inference, is he's not there.

09:32:32 17 MR. WISE: But it's not that he was never there.

09:32:35 18 THE COURT: No, no, I get it. But that's fair  
09:32:38 19 for the jury to decide. Right? If she says he was, he says  
09:32:43 20 he wasn't, that's for the jury to decide.

09:32:46 21 MR. WISE: Sure, and if she says he wasn't, he  
09:32:49 22 left, this isn't inconsistent with that.

09:32:51 23 THE COURT: I understand. That's why I say  
09:32:53 24 we'll take it one step at a time because I don't know what  
09:32:56 25 the witness is going to say.

09:32:58 1 Okay. Any other exhibits, anything else we need  
09:33:01 2 to talk about before we let the jury come in?

09:33:05 3 MR. WISE: Not from the United States.

09:33:06 4 MR. LOWELL: No, we'll get working on that.

09:33:10 5 THE COURT: All right. Thank you. Let's bring  
09:33:11 6 in the jury.

09:34:14 7 (Jury entering the courtroom at 9:35 a.m.)

09:36:06 8 THE COURT: All right. Everyone, be seated.  
09:36:35 9 Members of the jury, welcome back. It's time for me to ask  
09:36:39 10 my question. Have you heard anything about this trial?

09:36:42 11 THE JURY: No.

09:36:43 12 THE COURT: Anyone try to talk to you about  
09:36:44 13 anything in this trial?

09:36:46 14 THE JURY: No.

09:36:47 15 THE COURT: All right. And you haven't done any  
09:36:49 16 research or watched any TV, social media, heard any radio,  
09:36:55 17 read any internet, anything kind of like that; right?

09:37:01 18 THE JURY: No.

09:37:01 19 THE COURT: All right. Okay. All right. Let's  
09:37:04 20 continue. Let's bring in Mr. Cleveland. Welcome back.

09:37:08 21 THE WITNESS: Good morning.

09:37:08 22 THE COURT: And sir, I'm just going to remind  
09:37:10 23 you, you're still under oath. Okay.

09:37:14 24 THE WITNESS: Yes.

09:37:17 25 MR. LOWELL: Ready, Your Honor?



Cleveland - cross

09:37:25 1 THE COURT: I am.

09:37:26 2 CROSS-EXAMINATION

09:37:26 3 BY MR. LOWELL

09:37:27 4 Q. Good morning, Mr. Cleveland, good morning, ladies and  
09:37:29 5 gentlemen. Mr. Cleveland, sorry I didn't get to finish last  
09:37:33 6 evening.

09:37:33 7 Yesterday we were talking about a government  
09:37:36 8 exhibit, which is government Exhibit A, which is the  
09:37:43 9 Form 4473. And you were asked questions about the questions  
09:37:46 10 on the first page. Do you remember doing that yesterday?

09:37:49 11 A. Yes.

09:37:50 12 Q. And you identified one that is letter E. Do you  
09:37:54 13 remember that?

09:37:55 14 A. Yes.

09:37:56 15 Q. I would like you to read through the other questions  
09:37:58 16 that you said you saw Mr. Biden check the box for, okay?

09:38:02 17 A. Okay. So you want me to start with E?

09:38:04 18 Q. No, I'll do it as short as I can to save you and the  
09:38:09 19 jury time.

09:38:09 20 A. Okay.

09:38:10 21 Q. A, for example, asks the question, are you the actual  
09:38:13 22 transferee; correct?

09:38:15 23 A. Yes.

09:38:15 24 Q. And that question uses the word "are"?

09:38:20 25 A. Yes.

Cleveland - cross

09:38:23 1 Q. Then B says, are you under indictment or  
09:38:28 2 investigation, do you see that, for a felony?

09:38:30 3 A. Yes.

09:38:30 4 Q. It uses the word "are", correct?

09:38:34 5 A. Yes.

09:38:34 6 Q. It doesn't ask have you ever been indicted, does it?

09:38:38 7 A. No.

09:38:38 8 Q. Then C says, have you been convicted, do you see  
09:38:42 9 that?

09:38:43 10 A. Yes.

09:38:43 11 Q. So that one has a "have you ever" or "have you been",  
09:38:46 12 right?

09:38:49 13 A. Yes.

09:38:49 14 Q. D says are you a fugitive, it's another "are", do you  
09:38:54 15 see that?

09:38:54 16 A. Yes.

09:38:54 17 Q. It doesn't ask have you ever been a fugitive,  
09:38:58 18 correct?

09:38:59 19 A. Yes.

09:38:59 20 Q. E says, as you indicated, "are you", an unlawful user  
09:39:04 21 of, or, it has the word "or" in it, right?

09:39:08 22 A. Yes.

09:39:08 23 Q. And then it says addicted. That's one that is an  
09:39:12 24 are, A-R-E; right?

09:39:15 25 A. Yes, sir.

Cleveland - cross

09:39:15 1 Q. F then says have you ever been adjudicated as a  
09:39:20 2 mental defective, do you see that?

09:39:22 3 A. Yes.

09:39:22 4 Q. And that's a "have you", looking at the words have  
09:39:26 5 you ever, do you see that?

09:39:27 6 A. It is.

09:39:27 7 Q. G says have you been discharged, and you see that  
09:39:33 8 one?

09:39:33 9 A. Yes.

09:39:33 10 Q. That is also one that says "have you"; is that right?

09:39:36 11 A. Yes.

09:39:37 12 Q. And then H says are you subject to a court order  
09:39:42 13 restraining you, do you see that?

09:39:44 14 A. Yes.

09:39:44 15 Q. That's an "are"?

09:39:45 16 A. Yes.

09:39:46 17 Q. It doesn't say "have you ever"?

09:39:48 18 A. No.

09:39:49 19 Q. In your experience selling weapons, would it give you  
09:39:55 20 pause if somebody said "I used to have a restraining order  
09:39:59 21 against me for my partner, my spouse, but I would like to  
09:40:03 22 get a gun"?

09:40:04 23 A. Yes, it would have me stop the sale.

09:40:06 24 Q. But that's not what it asks, is it?

09:40:09 25 A. No.

Cleveland - cross

09:40:09 1 Q. I says, have you ever been convicted, right?

09:40:12 2 A. Yes.

09:40:13 3 Q. That's a "have you"?

09:40:14 4 A. Yes, it is.

09:40:15 5 Q. 12B says, have you ever renounced, right?

09:40:19 6 A. Yes.

09:40:20 7 Q. It doesn't say are you presently renouncing, do you  
09:40:23 8 plan to renounce, it says "have you"?

09:40:24 9 A. Yes.

09:40:25 10 Q. 12C says, are you an illegal -- sorry, are you an  
09:40:32 11 alien illegally or unlawfully in the United States, right?

09:40:36 12 A. Yes.

09:40:37 13 Q. That's an "are", A-R-E, right?

09:40:39 14 A. Yes.

09:40:40 15 Q. It doesn't say have you ever been admitted illegally  
09:40:43 16 or unlawfully, it doesn't look backwards, does it?

09:40:46 17 A. No.

09:40:46 18 Q. But to be clear, E is one of those ones that say  
09:40:51 19 "are", A-R-E?

09:40:53 20 A. Yes.

09:40:56 21 Q. Okay. Then if you take that piece down.

09:41:00 22 Your testimony you said that you observed  
09:41:03 23 Mr. Biden looking at the form, you told him to take his  
09:41:06 24 time?

09:41:06 25 A. Yes.

Cleveland - cross

09:41:06 1 Q. You remember that, right?

09:41:08 2 A. Yes.

09:41:09 3 Q. Okay. So the form has multiple pages on it, right?

09:41:13 4 A. Yes.

09:41:14 5 Q. And you saw him looking at each page?

09:41:16 6 A. Well, he only had to go ahead and look at the first  
09:41:19 7 -- the front of it and the back when he went to go to the  
09:41:22 8 certified, so yes.

09:41:24 9 Q. How about the instructions which explain what we just  
09:41:26 10 went through, A, B, C, D, E, that's in the form, isn't it?

09:41:31 11 A. Yes.

09:41:31 12 Q. That's something that would be in the same form that  
09:41:33 13 you handed him?

09:41:34 14 A. Yes.

09:41:34 15 Q. So it's a whole package?

09:41:37 16 A. Yes.

09:41:37 17 Q. And that's where directions, instructions, and  
09:41:39 18 definitions apply for somebody who is filling out the form?

09:41:44 19 A. Yes, sir.

09:41:44 20 Q. If you'll turn to the page, put back 10A, Mr. Radic,  
09:41:49 21 if you will turn the page. Turn the page again. Okay. So  
09:41:55 22 that's where your signature is and then it begins, the  
09:42:00 23 series of instructions and definitions, right?

09:42:03 24 A. Yes.

09:42:03 25 Q. So if you look -- if you'll turn the page, Mr. Radic.

Cleveland - cross

09:42:07 1 If you look at the -- the questions on that page  
09:42:12 2 conform to the boxes, don't they?

09:42:14 3 A. Yes.

09:42:14 4 Q. So if you'll see, there is one for 9, there is one  
09:42:19 5 for 10A, et cetera, and then there is the 11 questions  
09:42:22 6 starting at the bottom of the lower page, do you see that?

09:42:24 7 A. Yes, sir.

09:42:25 8 MR. HINES: Objection. Actually it starts at  
09:42:27 9 the top of the page.

09:42:28 10 BY MR. LOWELL:

09:42:28 11 Q. I'm sorry, go to the left, the bottom of the  
09:42:31 12 left-hand column, letter A, "actual transferee", do you see  
09:42:35 13 that. You don't have to blow it up yet Mr. Radic. That's  
09:42:39 14 where there is a corresponding instruction for the parts of  
09:42:42 15 the box you said that Mr. Biden signed?

09:42:44 16 A. Yes.

09:42:44 17 Q. And there is one more 11A, 11B, 11D, 11F, on the next  
09:42:54 18 page, Mr. Radic?

09:42:56 19 MR. HINES: Objection. Sorry just to be clear,  
09:43:00 20 11B-12.

09:43:04 21 BY MR. LOWELL:

09:43:04 22 Q. Let me start again. You see there is an instruction  
09:43:08 23 for 11A to bottom?

09:43:09 24 A. Yes.

09:43:09 25 Q. Then there is one for 11B-12. Do you see that?

Cleveland - cross

09:43:14 1 A. Yes.

09:43:14 2 Q. And then there is a lot of words right between that  
09:43:17 3 one and the next one?

09:43:18 4 A. Yes.

09:43:18 5 Q. And then it says 11D, right?

09:43:20 6 A. Yes.

09:43:21 7 Q. All right. 11A was actual transferor definition of  
09:43:25 8 that, right?

09:43:26 9 A. Yes.

09:43:26 10 Q. And 11B-12 is addressing the issue of what's  
09:43:33 11 prohibited in terms of transportation, shipment as it is  
09:43:37 12 explained there, right?

09:43:38 13 A. Yes.

09:43:38 14 Q. And then 11D is phrased fugitive from justice?

09:43:43 15 A. Yes.

09:43:44 16 Q. And it explains that provision, correct?

09:43:48 17 A. Yes.

09:43:48 18 Q. 11F says adjudicated as a mental defective, and do  
09:43:54 19 you see that?

09:43:55 20 A. Yes.

09:43:55 21 Q. And then it goes further, it says committed to, and  
09:43:57 22 then there is an exception. Can you turn to the next page,  
09:44:01 23 Mr. Radic. And then it goes more words to 11H, which says  
09:44:06 24 "qualifying restraining order".

09:44:09 25 A. Yes.

Cleveland - cross

09:44:09 1 Q. And it's talking again, that's the one that says "are  
09:44:14 2 you", not have you?

09:44:15 3 A. Yes.

09:44:15 4 Q. And then 11I explains what a misdemeanor crime for  
09:44:21 5 domestic violence is?

09:44:23 6 A. Yes.

09:44:23 7 Q. And 12D explains that question of immigration status  
09:44:27 8 in the present tense?

09:44:28 9 A. Yes.

09:44:29 10 Q. And it doesn't go and ask have you ever, does it?

09:44:32 11 A. No.

09:44:35 12 Q. And then 13 explains further about the U.S. issued  
09:44:41 13 alien number, correct?

09:44:41 14 A. Yes.

09:44:42 15 Q. If you go back a page, Mr. Radic. Do you see on the  
09:44:45 16 page before where I said there is a definition for question  
09:44:49 17 11D called fugitive from justice?

09:44:52 18 A. Yes.

09:44:53 19 Q. And then it goes to 11F, right?

09:44:55 20 A. Yes.

09:44:55 21 Q. There is no provision in this which defines or  
09:44:59 22 instructs as to 11E, is there?

09:45:00 23 MR. HINES: Objection. May we approach?

09:46:25 24 (Side-bar discussion.)

09:46:25 25 MR. HINES: So really two issues, one there is



Cleveland - cross

09:46:25 1 no foundation for these questions because there is a  
09:46:25 2 question that addresses 11E, it's in the section that says  
09:46:25 3 question B through 12 and what Mr. Lowell just did is he  
09:46:25 4 skipped the part he is an unlawful user of or addicted to  
09:46:25 5 marijuana or any depressant or narcotic drug, he's  
09:46:25 6 suggesting there is nothing in these instructions related to  
09:46:25 7 that, the second issue it's irrelevant because it doesn't  
09:46:25 8 matter what Mr. Cleveland's interpretation are regarding  
09:46:25 9 what we're going through with the instruction, it's an  
09:46:25 10 irrelevant basis.

09:46:25 11 MR. LOWELL: As to the first, I don't mind going  
09:46:25 12 backwards, all it does is repeat the question, it doesn't  
09:46:25 13 define it. As to the second, I'm not asking the question  
09:46:25 14 that he just asked, I am pointing out that they can readily  
09:46:25 15 see which is, there is nothing on 11E, that's all end of the  
09:46:25 16 story.

09:46:25 17 THE COURT: That's all your going to ask?

09:46:25 18 MR. LOWELL: Yes.

09:46:25 19 THE COURT: You can point out whatever you want  
09:46:25 20 to point out.

09:46:25 21 MR. HINES: Okay.

09:46:26 22 BY MR. LOWELL:

09:46:27 23 Q. Mr. Radic, would you go back to the second column  
09:46:30 24 which says questions 11B-12. 11B-12 references a statute  
09:46:37 25 and it says what it prohibits, it prohibits receipt or

Cleveland - cross

09:46:41 1 possession in or affecting interstate commerce of a firearm  
09:46:46 2 by one who has been convicted of a felony in a federal state  
09:46:51 3 or local court, right?

09:46:52 4 A. Yes.

09:46:52 5 Q. And that corresponds to one of the questions, yes?

09:46:55 6 A. Yes.

09:46:57 7 Q. And that's a has been. Than or any other crime  
09:47:01 8 punishable by imprisonment, and then it explains it does not  
09:47:04 9 include state misdemeanors, right?

09:47:06 10 A. Yes.

09:47:07 11 Q. Is a fugitive from justice?

09:47:09 12 A. Yes.

09:47:10 13 Q. It's not have you ever been. Is an unlawful user of  
09:47:13 14 or addicted to marijuana or any depressant, stimulant,  
09:47:14 15 narcotic drug or any other controlled substance, do you see  
09:47:17 16 that one?

09:47:17 17 A. Yes.

09:47:17 18 Q. That matches E right?

09:47:20 19 A. Yes.

09:47:20 20 Q. In that paragraph, it doesn't say more than what the  
09:47:23 21 11E space on the front of the form says, the exact same  
09:47:26 22 words?

09:47:27 23 A. Yes.

09:47:27 24 Q. It doesn't have a definition?

09:47:28 25 A. No.

Cleveland - cross

09:47:29 1 Q. Then it says has been adjudicated as a mental  
09:47:32 2 defective, that's something that you and I went over on the  
09:47:35 3 front of the form, right?

09:47:36 4 A. Yes.

09:47:36 5 Q. And has been, that's another has been, discharged  
09:47:39 6 from the armed forces, do you see that?

09:47:41 7 A. Yes.

09:47:42 8 Q. And then there is that "is", is subject to certain  
09:47:45 9 restraining orders, right?

09:47:46 10 A. Yes.

09:47:46 11 Q. That's an is, I'm sorry, that's an is, not a has  
09:47:52 12 been?

09:47:52 13 A. Yes.

09:47:52 14 Q. And then second line down, has renounced?

09:47:55 15 A. Yes.

09:47:56 16 Q. Do you see that one?

09:47:57 17 A. Yes.

09:47:57 18 Q. That just matches the words in the front of the form,  
09:48:00 19 there are no specific definitions in those?

09:48:02 20 A. No.

09:48:02 21 Q. And then if you'll zoom out, Mr. Radic. And then all  
09:48:05 22 I was asking you is that now we've looked at each of the  
09:48:08 23 words in 11B-12, you go down the page, 11D says, "fugitive  
09:48:14 24 from justice", that's where we're at, correct?

09:48:17 25 A. Yes, sir.

Cleveland - cross

09:48:18 1 Q. And then it skips to 11F?

09:48:20 2 A. Yep.

09:48:20 3 Q. So all I'm asking you, in this form in that place, is  
09:48:25 4 there an 11E definition? There is not, is there?

09:48:28 5 A. No.

09:48:31 6 Q. You can take that down, Mr. Radic.

09:48:33 7 Then in terms of the sequence of events, you  
09:48:37 8 talked about the form being presented going into the back  
09:48:42 9 room. And yesterday you were asked this question in terms  
09:48:51 10 of when Mr. Biden signed the form. You were asked "what  
09:48:57 11 happened next after you seen Mr. Biden sign the form and  
09:48:59 12 date it?" And then you answered "what happens next is  
09:49:04 13 Jason", is that referring to Jason Turner, right?

09:49:07 14 A. Yes, sir.

09:49:07 15 Q. "Said also we would need for the passport, another  
09:49:10 16 form of like identification stating his address, it could be  
09:49:16 17 a bill, or it could be vehicle registration", then question,  
09:49:22 18 "what's the next thing you observed?" And the answer, "I  
09:49:25 19 observed Mr. Biden leave out and then come back in."

09:49:28 20 That's what you said yesterday?

09:49:30 21 A. Yes.

09:49:31 22 Q. What was it that you brought to Mr. Jason Turner's  
09:49:36 23 attention?

09:49:37 24 A. What did I bring -- you said what did I bring to  
09:49:41 25 Jason Turner?

Cleveland - cross

09:49:42 1 Q. You said Jason Turner did something, what did you say  
09:49:46 2 to him?

09:49:46 3 A. I didn't say anything, I think Jason, I think he  
09:49:49 4 realized that it needed to be --

09:49:52 5 MR. HINES: Objection.

09:49:52 6 THE COURT: Yes. So you don't have to speculate  
09:49:54 7 on what Mr. Turner thought, if you don't know.

09:49:57 8 THE WITNESS: Yeah, I'm not a hundred percent  
09:49:59 9 sure about that.

09:50:00 10 BY MR. LOWELL:

09:50:00 11 Q. Hundred percent. You presented Mr. Jason -- sorry,  
09:50:03 12 you presented Mr. Turner with what?

09:50:05 13 A. I presented Mr. Turner with the form so that he could  
09:50:09 14 go ahead and run the background check.

09:50:12 15 Q. Okay. And did you also provide him the  
09:50:14 16 identification that existed at the time?

09:50:16 17 A. Yes.

09:50:17 18 Q. Okay. And then what did -- what did you say to him  
09:50:20 19 when you did that, did you say anything?

09:50:22 20 A. I said it's ready to go.

09:50:24 21 Q. Okay.

09:50:25 22 A. Ready to run the background.

09:50:27 23 Q. Did you say anything to him about that you were  
09:50:29 24 giving him a passport versus any other form?

09:50:32 25 A. No, he already had seen it.

Cleveland - cross

09:50:35 1 Q. Okay. Tell me that. What did he see what?

09:50:38 2 A. He already knew about the passport.

09:50:40 3 MR. HINES: Objection. Asked and answered  
09:50:42 4 yesterday.

09:50:43 5 THE COURT: Yes.

09:50:44 6 MR. LOWELL: I'm sorry, I know we asked it, you  
09:50:48 7 asked it.

09:50:48 8 BY MR. LOWELL:

09:50:49 9 Q. I'm sorry, can I unwind that a second please. He had  
09:50:52 10 already seen what?

09:50:53 11 A. The passport.

09:50:54 12 Q. When did he see that?

09:50:55 13 A. He seen that when I went to go ask about was it fine  
09:50:59 14 to use.

09:51:00 15 Q. So you did say something to him?

09:51:02 16 A. Yes.

09:51:04 17 Q. And you said is it okay to use the passport?

09:51:06 18 A. Yes.

09:51:06 19 Q. Is that all you said?

09:51:07 20 A. Yeah, that was it.

09:51:08 21 Q. Why did you ask him that?

09:51:10 22 A. Because as I stated yesterday, I have --

09:51:13 23 MR. HINES: Objection.

09:51:22 24 THE COURT: I'm not -- I mean, come over here.

09:55:02 25 (Side-bar discussion.)

Cleveland - cross

09:55:02 1 THE COURT: What's the objection?

09:55:02 2 MR. HINES: The issue is, maybe I jumped the gun  
09:55:02 3 with the objection, I'll say that, but where are we going  
09:55:02 4 with this and what's next, if he's just asking why did you  
09:55:02 5 ask the question, but then if it is, was the reason you  
09:55:02 6 asked that question was because you needed a secondary form  
09:55:02 7 of identification, what is the state of mind at this point,  
09:55:02 8 they're sort of packaged together, that's all irrelevant,  
09:55:02 9 it's not a fact or consequence.

09:55:02 10 THE COURT: You're going to say why did you do  
09:55:02 11 it and he said because I don't know if that was enough and  
09:55:02 12 then what?

09:55:02 13 MR. LOWELL: That's the end of that question I  
09:55:02 14 think.

09:55:02 15 THE COURT: I know that's the end of that  
09:55:02 16 question but what comes next in your questions.

09:55:02 17 MR. LOWELL: Yesterday he testified that it  
09:55:02 18 could be a bill, like a utility bill, he used the word bill,  
09:55:02 19 it can't be a bill, he said it in testimony.

09:55:02 20 THE COURT: Okay.

09:55:02 21 MR. LOWELL: It can't be a bill, Your Honor.

09:55:02 22 THE COURT: No. No. I mean, that's not really  
09:55:02 23 relevant to whether or not this guy checked the box. So you  
09:55:02 24 can say did you ever get that, did you ever get it, you can  
09:55:02 25 ask that. But you can't ask -- and you know it was illegal

Cleveland - cross

09:55:02 1 that you used the a bill.

09:55:02 2 MR. LOWELL: I wasn't going to say that.

09:55:02 3 THE COURT: It wasn't allowed that you used just  
09:55:02 4 a passport.

09:55:02 5 MR. LOWELL: Okay. The form is in evidence,  
09:55:02 6 Your Honor, though, so when it comes to the definition of  
09:55:02 7 what is the residence, I mean it's in evidence, I won't ask  
09:55:02 8 him about it.

09:55:02 9 THE COURT: I understand. Look, I just put  
09:55:02 10 someone in prison for a long time because he used the wrong  
09:55:02 11 address and you said in your opening that he put the wrong  
09:55:02 12 address on even though he doesn't live there. So you can  
09:55:02 13 you know talk about that and the address and he can put  
09:55:03 14 what's there, but I'm not sure it's helpful.

09:55:03 15 MR. LOWELL: On that point Your Honor, since you  
09:55:03 16 raised it, that's where he was living when he was in  
09:55:03 17 Delaware.

09:55:03 18 THE COURT: Okay. I'm just going by-- it  
09:55:03 19 surprised me when you said it in your opening, I said holy  
09:55:03 20 cow.

09:55:03 21 MR. LOWELL: It wasn't his permanent address,  
09:55:03 22 but the relevance so that the record is as you and I are  
09:55:03 23 doing it, if somebody said he went and got a car  
09:55:03 24 registration at that address in the black Cadillac, it's his  
09:55:03 25 father's car.



Cleveland - cross

09:55:03 1 THE COURT: He already said it wasn't his car.  
09:55:03 2 I think -- or maybe you said it.

09:55:03 3 MR. LOWELL: I said in opening.

09:55:03 4 THE COURT: You said it wasn't his car. He knew  
09:55:03 5 it wasn't his car.

09:55:03 6 MR. LOWELL: If they're going to profess that  
09:55:03 7 the man came back with a car registration as maybe he or  
09:55:03 8 somebody else.

09:55:03 9 MR. WISE: He didn't say that, he didn't say  
09:55:03 10 that, he never said he came back with a registration.

09:55:03 11 MR. LOWELL: I'm sorry, because somebody said  
09:55:03 12 something wrong once one way in an interview.

09:55:03 13 MR. WISE: He didn't say it on direct.

09:55:03 14 THE COURT: You can ask him did he ever see a  
09:55:03 15 car, a registration.

09:55:03 16 MR. LOWELL: Yes.

09:55:03 17 THE COURT: That's it.

09:55:03 18 MR. LOWELL: Right, and then Mr. Turner will be  
09:55:03 19 asked the same question.

09:55:03 20 MR. HINES: But our case-in-chief is ending, we  
09:55:03 21 have proved it you can't dull Turner.

09:55:03 22 THE COURT: Just to impeach him.

09:55:03 23 MR. LOWELL: Not to impeach Mr. Cleveland.

09:55:03 24 THE COURT: Or you can't call him just to  
09:55:03 25 impeach Mr. Turner, either ask him to say something if you

Cleveland - cross

09:55:03 1 think he's going to lie on the stand. You can't put him up  
09:55:03 2 there to lie because. You're not allowed to put someone up  
09:55:03 3 there to lie and if they do, you can't put them up there  
09:55:03 4 just to cross-examine him.

09:55:03 5 If you're going to call Mr. Turner and you  
09:55:03 6 object, we can get a proffer. We don't need to find that  
09:55:03 7 right now. That seems pointless.

09:55:08 8 (End of side-bar.)

09:55:08 9 BY MR. LOWELL:

09:55:11 10 Q. I'm trying to remember my last question, which was  
09:55:13 11 did I ask you yet what did you say to Mr. Turner?

09:55:16 12 A. Yes.

09:55:17 13 Q. What did you say?

09:55:17 14 A. I said that the background check was ready.

09:55:20 15 Q. Before that you were, were you presenting the first  
09:55:22 16 time with the passport what did you say?

09:55:24 17 A. I asked him was the passport fine to use.

09:55:26 18 Q. And then coming back he then did something you said  
09:55:30 19 yesterday, you don't have to tell me what he said, but he  
09:55:32 20 did something?

09:55:33 21 A. Yes.

09:55:33 22 Q. But yesterday you did say you got the okay?

09:55:36 23 A. Yeah.

09:55:36 24 Q. And who else was in the room when that happened?

09:55:39 25 A. Jason and Ronald Palimere.

Cleveland - cross

09:55:41 1 Q. And was Mr. Palimere and Mr. Turner together when  
09:55:45 2 this exchange was going on?

09:55:47 3 A. Yes.

09:55:48 4 Q. They both heard your -- sorry, Mr. Palimere was close  
09:55:51 5 enough to Mr. Turner to hear what you were saying and what  
09:55:54 6 Mr. Turner was saying?

09:55:56 7 A. Yes.

09:56:00 8 Q. When you were in the room with Mr. Palimere, did you  
09:56:03 9 get an impression in your exchange of what Mr. Palimere was  
09:56:07 10 seeking to get the sale done quickly?

09:56:11 11 A. He wanted the sale done quickly because he didn't  
09:56:14 12 want him --

09:56:15 13 MR. HINES: Objection.

09:56:16 14 THE COURT: Yeah. Hearsay is when you're  
09:56:20 15 talking about what someone else said out of court. So we  
09:56:23 16 don't let in hearsay, and I sustain the objection.

09:56:27 17 MR. LOWELL: All he was asking, and I didn't ask  
09:56:29 18 you for what he said, I said did you get the impression that  
09:56:32 19 he wanted the sale to go quickly.

09:56:34 20 THE WITNESS: Yes.

09:56:34 21 BY MR. LOWELL:

09:56:34 22 Q. Now, after you said yesterday that Jason said that we  
09:56:40 23 should need for the passport another form of identification  
09:56:43 24 stating his address, it could be a bill, or it could be a  
09:56:46 25 vehicle registration, then you said what's next, I observed

Cleveland - cross

09:56:50 1 Mr. Biden leave out and then come back in?

09:56:52 2 A. Yes.

09:56:53 3 Q. Right, did he come back in with anything?

09:56:56 4 A. I believe so.

09:56:58 5 Q. When you say you believe so, what's that belief based  
09:57:02 6 on?

09:57:02 7 A. I believe so because Jason was the one that was  
09:57:05 8 handling the rest of that, taking over to run the background  
09:57:08 9 check.

09:57:08 10 Q. So is it your testimony that you don't know and are  
09:57:14 11 assuming that Mr. Turner did or got something or you saw  
09:57:17 12 that, or what did you see Mr. Biden do and come back with,  
09:57:21 13 if anything?

09:57:22 14 A. He just came back in, that's all I can say, he came  
09:57:25 15 back in.

09:57:25 16 Q. Did you see him have a piece of paper in his hand?

09:57:28 17 A. No.

09:57:29 18 Q. Did you see him talk to Mr. Turner at that point?

09:57:32 19 A. Yes.

09:57:33 20 Q. So he comes back in and has a conversation with  
09:57:37 21 Mr. Turner?

09:57:38 22 A. Yes.

09:57:38 23 Q. Did you see Mr. Biden give Mr. Turner anything?

09:57:41 24 A. No.

09:57:41 25 Q. And then what happened next in terms of the sequence,

Cleveland - cross

09:57:46 1 did Mr. Turner go back into the back room?

09:57:48 2 A. Yes, to run a background.

09:57:50 3 Q. So that's when he ran the background?

09:57:52 4 A. Yes, we don't do it on the sales floor.

09:57:55 5 Q. Okay. Going back to the form, go to the first -- to

09:58:07 6 the second page, Mr. Radic.

09:58:10 7 In the form, you said that it was Mr. Turner who

09:58:15 8 filled out line 18(a)?

09:58:17 9 A. Yes.

09:58:17 10 Q. And that's where the passport is referred to?

09:58:20 11 A. Yes.

09:58:20 12 Q. And then 18(b) says supplement, do you see that?

09:58:24 13 A. Yes.

09:58:24 14 Q. Is there anything on the form about a supplement that  
09:58:27 15 day?

09:58:28 16 A. No.

09:58:37 17 Q. Yesterday you said that you're the one who copied the  
09:58:40 18 form and attached the form of identification to it?

09:58:45 19 A. Yes.

09:58:47 20 Q. Okay. Can we get back to government Exhibit 10A

09:58:52 21 again? So if we flip to the next page. And the next page.

09:58:58 22 And the next page. Sorry, keep going, please. And the next

09:59:03 23 page. Next page. Okay.

09:59:06 24 So it is the practice to take what it is a

09:59:10 25 person presents as their I.D., and then put it on the form?

Cleveland - cross

09:59:14 1 A. Yes.

09:59:14 2 Q. And there was a passport, you talked about the  
09:59:16 3 passport. Whose handwriting is on the left?

09:59:19 4 A. Mine.

09:59:20 5 Q. So you did that and attached that; is that right?

09:59:25 6 A. Yes.

09:59:26 7 Q. And I notice that was in red?

09:59:29 8 A. Yes.

09:59:29 9 Q. Yesterday I think your -- and we saw your handwriting  
09:59:34 10 was in blue?

09:59:35 11 A. Yes.

09:59:35 12 Q. Except for that date next to your signature which was  
09:59:38 13 in red?

09:59:38 14 A. Yes.

09:59:39 15 Q. How did this become red?

09:59:40 16 A. Because with this form I don't have to fill out any  
09:59:43 17 specific color, I can use whatever pen that I grab out of  
09:59:47 18 the pen holder.

09:59:48 19 Q. I got it. I'm just trying to figure out like when  
09:59:50 20 the blue came to red on this. So you had both or did you  
09:59:54 21 take Jason's pen?

09:59:55 22 A. No, multiple different color pens in the pen holder.

10:00:01 23 Q. Okay. So you can -- that handwriting is yours?

10:00:04 24 A. Yes.

10:00:05 25 Q. And that's what you attached?

Cleveland - cross

10:00:06 1 A. Yes.

10:00:07 2 Q. There is nothing after this passport, you didn't  
10:00:10 3 attach any other form of I.D. that day?

10:00:13 4 A. No.

10:00:14 5 Q. In terms of your interchange with Mr. Biden that day  
10:00:19 6 -- now you can take it down.

10:00:20 7 Did you go through the checklist with him and  
10:00:22 8 ask him if he was a fugitive or ask him whether or not he  
10:00:26 9 was under a restraining order, or ask if he had ever been an  
10:00:30 10 improper person in the country, did you go through and ask  
10:00:33 11 him any of those orally?

10:00:34 12 A. No, he's supposed to read that and answer those  
10:00:37 13 questions himself.

10:00:39 14 Q. Did you ask him any questions about whether or not he  
10:00:41 15 ever drank or was presently drinking alcohol?

10:00:44 16 A. No.

10:00:45 17 Q. But I understand that that would be of concern to  
10:00:48 18 you?

10:00:48 19 A. Yes.

10:00:49 20 Q. Even though it's not asked for on the form?

10:00:51 21 A. Yes.

10:00:54 22 Q. So are you -- am I right that there is no other form  
10:00:58 23 that he was given that day that asked him about his use of  
10:01:01 24 alcohol?

10:01:01 25 A. No.

Cleveland - cross

10:01:03 1 Q. And you don't want to sell a gun, I imagine, to  
10:01:06 2 somebody who you know to be either high or drunk or using a  
10:01:12 3 drug or using alcohol, right?

10:01:14 4 A. No.

10:01:15 5 Q. Is it your practice to try to understand or glean or  
10:01:20 6 observe a person?

10:01:20 7 A. Yes.

10:01:22 8 Q. And as I understand it, your practice would be that  
10:01:26 9 you would try to see whether somebody is glassy eyed, right?

10:01:30 10 A. Yes.

10:01:30 11 Q. Or smells of alcohol?

10:01:32 12 A. Yes.

10:01:32 13 Q. Or smells of marijuana such that it gives a smell?

10:01:36 14 A. Yes.

10:01:36 15 Q. Or any other indication of a person?

10:01:39 16 A. Yeah.

10:01:39 17 Q. Not being in their normal sober condition?

10:01:42 18 A. Yes.

10:01:43 19 Q. And that day Mr. Biden didn't exhibit any of those  
10:01:48 20 things that you try to observe?

10:01:50 21 A. Not at all.

10:01:53 22 Q. Then you indicated that Mr. Turner was the one to run  
10:01:58 23 the background check, I'm not going to belabor that. I do  
10:02:02 24 want to figure out just as best as I can the sequence.

10:02:05 25 Okay?



Cleveland - cross

10:02:05 1 A. Okay.

10:02:06 2 Q. I promise I won't take a long time. If you'll put up  
10:02:09 3 government Exhibit 12. So I'm referring to government  
10:02:26 4 Exhibit 12A, which is in evidence. Do you recognize what  
10:02:30 5 this is?

10:02:31 6 A. Yes.

10:02:31 7 Q. What is it?

10:02:32 8 A. That is the paperwork for when you run a NICS  
10:02:37 9 background check.

10:02:38 10 Q. This would have been something Mr. Turner was  
10:02:40 11 responsible for?

10:02:41 12 A. Yes.

10:02:41 13 Q. And Mr. Turner runs the check, and it indicates when  
10:02:46 14 it was done on the top; right?

10:02:49 15 A. Yes.

10:02:50 16 Q. And that says on the 12th of October and the time is  
10:02:54 17 6:36 p.m., do you see that?

10:02:56 18 A. Yes.

10:02:56 19 Q. And then it also indicates when the response came,  
10:03:00 20 doesn't it?

10:03:01 21 A. Yes.

10:03:01 22 Q. And that would be three lines from the bottom of  
10:03:05 23 6:37 p.m., right?

10:03:06 24 A. Yes.

10:03:07 25 Q. So it took a minute for this to happen, right?

Cleveland - cross

10:03:10 1 A. Yes.

10:03:10 2 Q. And would you put up government Exhibit 13A, which is  
10:03:20 3 the sales receipt.

10:03:22 4 And the sales receipt has a time on the top,  
10:03:28 5 doesn't it?

10:03:29 6 A. Yes.

10:03:29 7 Q. What's that time?

10:03:31 8 A. 6:53.

10:03:33 9 Q. So the first time stamp of the check is 6:36, right?

10:03:40 10 A. Yes.

10:03:40 11 Q. Or 37 when it comes back?

10:03:42 12 A. Yes.

10:03:42 13 Q. And then this is all paid for on a cash -- on a cash  
10:03:48 14 basis, a receipt that is 6:53?

10:03:51 15 A. Yes.

10:03:51 16 Q. So I'm just trying to make sure I have this right.

10:03:54 17 In the sequence of events, the following things happened  
10:03:58 18 after you got the go ahead from Mr. Turner. You came back,  
10:04:05 19 only the gun was there, and then the other events occurred?

10:04:08 20 A. Yes.

10:04:08 21 Q. That's when you spoke to Mr. Biden about bullets?

10:04:12 22 A. Yes.

10:04:12 23 Q. That's when you spoke the to him about speed loader?

10:04:16 24 A. Yes.

10:04:17 25 Q. That's when he, according to you, went and looked and

Cleveland - cross

10:04:22 1 got the NEBO thing?

10:04:24 2 A. Yes.

10:04:24 3 Q. And then went over to the case where a BB gun was?

10:04:29 4 A. Yes.

10:04:30 5 Q. And then came back?

10:04:31 6 A. Yes.

10:04:31 7 Q. And then discussed with you all those purchases, put  
10:04:36 8 it on the table, you had to ring it up?

10:04:38 9 A. Yes.

10:04:38 10 Q. And you said yesterday that, his looking at the BB  
10:04:44 11 gun, his seeking the NEBO utility knife and the flash light  
10:04:49 12 all happened after the gun was picked out, not before?

10:04:52 13 A. Yes.

10:04:52 14 Q. And therefore in your sequence, all the events I just  
10:04:56 15 said, going in the back room, getting it, coming back,  
10:05:00 16 saying it was okay, all the things I just said happened in  
10:05:04 17 those 16 minutes?

10:05:05 18 MR. HINES: Objection. The form, he did it  
10:05:11 19 before the background check.

10:05:12 20 BY MR. LOWELL:

10:05:13 21 Q. I'm sorry, all the events that I just went through  
10:05:15 22 with you, all the ones that I detailed about whatever you  
10:05:18 23 did after you got the okay, and you're saying it all happens  
10:05:22 24 in terms of the utility knife, the flashlight, you said it  
10:05:25 25 was after?

Cleveland - cross

10:05:26 1 A. Yes.

10:05:26 2 Q. That happened in those 16 minutes?

10:05:29 3 A. Yes.

10:05:31 4 Q. So you ended up with that cash receipt and the sale  
10:05:34 5 at that hour. And Mr. Biden purchased all of those events.  
10:05:41 6 But the gun itself didn't go out of the store with the way  
10:05:47 7 it was presented to the jury as just a handgun that he puts  
10:05:51 8 in a bag and goes out, right?

10:05:53 9 A. No. It's leaving out in the case that it comes in  
10:05:57 10 from the manufacturer.

10:05:57 11 Q. Which has a lock on it?

10:06:00 12 A. No. It doesn't have a lock.

10:06:01 13 Q. At the time it didn't?

10:06:03 14 A. No, when the guns go out, this they don't have a  
10:06:07 15 lock, they have a lock inside to render them useless, you  
10:06:11 16 usually put it through the barrel and put the slide back or  
10:06:14 17 you open the cylinder on a revolver and you put the lock  
10:06:17 18 through and lock it with a key.

10:06:19 19 MR. LOWELL: May I approach, Your Honor?

10:06:21 20 THE COURT: All right.

10:06:22 21 BY MR. LOWELL:

10:06:23 22 Q. Let me show you what's been marked as government  
10:06:25 23 Exhibit 5A. Do you recognize that?

10:06:28 24 A. Yes.

10:06:29 25 Q. What does it depict?

Cleveland - cross

10:06:32 1 A. I didn't hear you.

10:06:33 2 Q. What does it depict, what does it show?

10:06:35 3 A. It depicts the Colt case for the revolver and it has  
10:06:39 4 a lock on it, which that lock would have been put on after  
10:06:42 5 the fact, leaving the store.

10:06:44 6 Q. And you see that the lock that you were just talking  
10:06:47 7 about has the name Colt on it?

10:06:49 8 A. Yes.

10:06:49 9 Q. It comes with the box?

10:06:52 10 A. Yes.

10:06:52 11 Q. Inside?

10:06:53 12 A. Yes.

10:06:53 13 Q. And then it gets put on the outside?

10:06:55 14 A. Yes.

10:06:56 15 Q. Is this an accurate depiction of the box that was  
10:07:00 16 given to Mr. Biden or that he asked about? He asked about  
10:07:03 17 the box, didn't he?

10:07:05 18 A. No, he didn't have to ask about the box, when you  
10:07:08 19 present the firearm -- so, once the person picks out what  
10:07:11 20 they want, I retrieve the box for it so the box is already  
10:07:16 21 there with the firearm sitting in it.

10:07:18 22 Q. He didn't leave with the firearm outside of the box?

10:07:20 23 A. No.

10:07:21 24 Q. He left with it in this?

10:07:22 25 A. Yes.

Cleveland - cross

10:07:23 1 MR. LOWELL: Your Honor we move into evidence  
10:07:25 2 government Exhibit 5 and 5A.

10:07:27 3 MR. HINES: No objection.

10:07:28 4 THE COURT: Thank you. Admitted.

10:07:30 5 MR. LOWELL: May I bring this to the attention  
10:07:32 6 of the witness and the jury?

10:07:34 7 THE COURT: You may.

10:07:35 8 MR. LOWELL: Thank you.

10:07:35 9 (Government Exhibits No. 5 and 5A were admitted  
10:07:40 10 into evidence.)

10:07:40 11 BY MR. LOWELL:

10:07:41 12 Q. Mr. Cleveland, I'm looking at what is admitted as  
10:07:43 13 Exhibit 5. Is this what you were talking about a moment  
10:07:46 14 ago?

10:07:47 15 A. Yes.

10:07:47 16 Q. This is the lock on it that says Colt, just as in the  
10:07:50 17 photo?

10:07:51 18 A. Yes.

10:08:13 19 Q. After Mr. Biden left the store with the material he  
10:08:17 20 had purchased and the gun was in the lock box, correct?

10:08:20 21 A. Yes.

10:08:21 22 Q. Put in a lock box. Do you know what happened next,  
10:08:24 23 where he went, what he did with it?

10:08:26 24 A. No.

10:08:26 25 Q. Did it ever come to your attention where he went

Cleveland - redirect

10:08:29 1 after that?

10:08:29 2 A. No.

10:08:30 3 Q. Or what happened to the gun?

10:08:31 4 A. No.

10:08:33 5 Q. I'm sorry, that I had you stay over. I have no other  
10:08:37 6 questions?

10:08:37 7 THE COURT: Redirect.

10:08:41 8 MR. HINES: Yes, Your Honor.

10:08:42 9 REDIRECT EXAMINATION

10:08:43 10 BY MR. HINES:

10:08:43 11 Q. Picking up where we left off, Government's Exhibit 5,  
10:08:46 12 Mr. Cleveland, you see how today in court it has a lock on  
10:08:50 13 top?

10:08:50 14 A. Yes.

10:08:50 15 Q. Was this lock on the box when you presented this to  
10:08:54 16 Mr. Biden?

10:08:55 17 A. No.

10:08:55 18 Q. It was inside the box?

10:08:56 19 A. Yes.

10:08:57 20 Q. And when he left the store, was the lock on it?

10:09:00 21 A. No.

10:09:00 22 Q. Do you know whether law enforcement or someone else  
10:09:03 23 put the lock on this box or Mr. Biden, do you have any idea?

10:09:07 24 A. No.

10:09:08 25 Q. Do you know whether Mr. Biden actually put his

Cleveland - redirect

10:09:10 1 revolver in this lock box when he had it in his possession?

10:09:16 2 A. No.

10:09:19 3 Q. Now, if we could have Exhibit 13A on the screen,  
10:09:24 4 please. Mr. Lowell asked you a series of questions about  
10:09:29 5 the events that occurred prior to 6:53, when this receipt  
10:09:33 6 was generated. Do you recall those questions he was just  
10:09:36 7 asking you?

10:09:36 8 A. Yes.

10:09:37 9 Q. And the background check was completed 16 minutes  
10:09:40 10 earlier?

10:09:41 11 A. Yes.

10:09:41 12 Q. Was Mr. Biden out on the floor while the background  
10:09:45 13 check was occurring?

10:09:47 14 A. Yes.

10:09:47 15 Q. And so he would have been on the floor for longer  
10:09:52 16 than 16 minutes looking at items?

10:09:55 17 A. Yes.

10:09:55 18 Q. Now, if you look at the number of items after the  
10:09:59 19 revolver, just 1, 2, 3, 4, 5 items on that receipt in  
10:10:03 20 addition to the revolver, correct?

10:10:05 21 A. Yes.

10:10:08 22 Q. And then yesterday Mr. Lowell asked you some  
10:10:12 23 questions, and actually again today, about Government's  
10:10:17 24 Exhibit 10A, and your signature on that on page 3. And  
10:10:28 25 above your signature at the end of the certification it



Cleveland - redirect

10:10:30 1 says, "it is my belief that it is not unlawful for me to  
10:10:34 2 sell, deliver, transport, or otherwise dispose of the  
10:10:37 3 firearms listed on the form to the person identified in  
10:10:40 4 section A." Is that what it says there at the bottom of the  
10:10:42 5 certification?

10:10:43 6 A. Yes.

10:10:43 7 Q. Does that mean that you're responsible, too, and that  
10:10:47 8 you're not able to sell someone a firearm if you knew that  
10:10:50 9 they were an unlawful user or an addict?

10:10:53 10 A. Yes.

10:10:53 11 Q. Is that why that question 11E matters?

10:10:56 12 A. Yes.

10:10:56 13 Q. Mr. Lowell asked you about that question, why does it  
10:11:00 14 matter?

10:11:01 15 A. It matters because on the form, you're not supposed  
10:11:06 16 to be purchasing firearms using drugs, even with a medical  
10:11:09 17 marijuana card, it's just the rules.

10:11:12 18 Q. Do you care?

10:11:13 19 A. Yes.

10:11:13 20 Q. Why do you care?

10:11:15 21 A. I mean, you have somebody under the influence,  
10:11:18 22 anything could happen.

10:11:20 23 MR. HINES: No further questions, Your Honor.

10:11:21 24 THE COURT: Thank you. All right. Thank you so  
10:11:24 25 much for coming back, Mr. Cleveland. You're excused.

Hallie Biden - direct

10:11:27 1 THE WITNESS: All right.

10:11:28 2 THE COURT: What's next?

10:11:29 3 MR. WISE: Your Honor, the United States calls  
10:11:31 4 Hallie Biden.

10:11:48 5 COURTROOM DEPUTY: Please raise your right hand.  
10:12:10 6 Please state and spell your full name for the record.

10:12:17 7 THE WITNESS: Hallie Biden, H-A-L-L-I-E,  
10:12:34 8 B-I-D-E-N.

10:12:36 9 HALLIE BIDEN, having been duly sworn was  
10:12:42 10 examined and testified as follows:

10:12:51 11 THE COURT: All right. Go ahead, Mr. Wise.

10:12:53 12 MR. WISE: Thank you, Your Honor.

10:12:53 13 DIRECT EXAMINATION

10:12:53 14 BY MR. WISE:

10:12:54 15 Q. Good morning, Ms. Biden.

10:12:55 16 A. Good morning.

10:12:56 17 Q. Do you know the about defendant?

10:12:58 18 A. Yes.

10:12:59 19 Q. And how do you know him?

10:13:00 20 A. He's my brother-in-law.

10:13:05 21 Q. How long have you known him?

10:13:06 22 A. Since I was young, actually, probably middle school.

10:13:09 23 Q. You testified he is your brother-in-law. Were you  
10:13:13 24 married to his brother?

10:13:14 25 A. Yes.

Hallie Biden - direct

10:13:14 1 Q. Did your husband die in 2015?

10:13:17 2 A. Yes. He did.

10:13:18 3 Q. At some point after the death of your husband, did  
10:13:21 4 you and the defendant begin a romantic relationship?

10:13:24 5 A. Yes.

10:13:24 6 Q. And approximately when was that?

10:13:26 7 A. Late 2015 or 2016, it was gradual.

10:13:32 8 Q. At some point after that, did you learn that the  
10:13:35 9 defendant was using drugs?

10:13:36 10 A. Yes, I did.

10:13:38 11 Q. And approximately when did you learn that?

10:13:41 12 A. During the time that I was in a romantic relationship  
10:13:45 13 with him, but I'm not sure exactly.

10:13:48 14 Q. And what kind of drugs was it that you learned he was  
10:13:51 15 using?

10:13:52 16 A. Crack cocaine.

10:13:54 17 Q. And how did you first learn that?

10:13:56 18 A. I found it and I Googled it because I didn't know  
10:14:03 19 what it was.

10:14:04 20 Q. Once you found it and you Googled it, did you talk to  
10:14:09 21 the defendant about it?

10:14:11 22 A. Yes, I did.

10:14:14 23 Q. And what did he tell you, I'm not looking for a  
10:14:17 24 quote, but what did he tell you?

10:14:19 25 A. He told me what it was.

Hallie Biden - direct

10:14:20 1 Q. And what did he say it was?

10:14:22 2 A. Crack cocaine.

10:14:25 3 Q. Had you ever seen that before?

10:14:26 4 A. I had not.

10:14:35 5 Q. Did he deny it was his?

10:14:37 6 A. No.

10:14:40 7 Q. And where were you when you first found it?

10:14:44 8 A. I think it was -- I'm not sure exactly but I believe  
10:14:47 9 it was my house.

10:14:48 10 Q. And where was your house at the time?

10:14:50 11 A. In Wilmington, Delaware.

10:14:53 12 Q. And would the defendant stay at your house in  
10:14:59 13 Wilmington, Delaware, from time to time?

10:15:01 14 A. Yes.

10:15:01 15 Q. After you first found it, did there come a time when  
10:15:04 16 you actually saw him smoking crack?

10:15:06 17 A. Yes.

10:15:07 18 Q. And where was that?

10:15:08 19 A. I don't remember where -- it might have been in the  
10:15:15 20 house or on the patio, I'm not sure exactly when I saw that.

10:15:20 21 Q. How frequently did you see him doing that once you  
10:15:24 22 started seeing him do that?

10:15:26 23 A. Occasionally.

10:15:29 24 Q. In between the times you saw him using it, were you  
10:15:33 25 also seeing him?

Hallie Biden - direct

10:15:36 1 A. In between the times -- I'm confused.

10:15:38 2 Q. In between the times he was smoking crack, were you  
10:15:42 3 also with him or seeing him?

10:15:44 4 A. Yes.

10:15:44 5 Q. And at those times was he interacting with other  
10:15:50 6 people?

10:15:50 7 A. Yes.

10:15:50 8 Q. Including members of your family?

10:15:52 9 A. Yes.

10:15:52 10 Q. And other acquaintances and family friends?

10:15:56 11 A. Yes.

10:15:56 12 Q. Was he also working?

10:15:58 13 A. Yes.

10:15:59 14 Q. All right. And did you see him smoking crack  
10:16:07 15 anywhere other than in Wilmington somewhere in or around  
10:16:11 16 your home?

10:16:13 17 A. In D.C., he had an apartment in D.C.

10:16:16 18 Q. Did you sometimes go there with him?

10:16:20 19 A. Yes.

10:16:21 20 Q. Where did he get the drugs from?

10:16:26 21 A. Various dealers.

10:16:27 22 Q. Did you sometimes see that?

10:16:29 23 A. Yes.

10:16:29 24 Q. Do you remember where you were when you saw that?

10:16:32 25 A. In D.C.

Hallie Biden - direct

10:16:36 1 Q. And were you ever with him when he bought drugs from  
10:16:39 2 the various dealers?

10:16:41 3 A. I was.

10:16:44 4 Q. When he used drugs, did you notice a change or did  
10:16:47 5 you observe a change in his demeanor or his behavior?

10:16:51 6 A. Yes.

10:16:52 7 Q. And describe what that was?

10:16:55 8 A. It varied, so it wasn't always consistent, but he  
10:17:04 9 would be agitated and high strung. But then other times,  
10:17:12 10 you know, functioning as well.

10:17:15 11 Q. Okay. And were there times when you were with him  
10:17:18 12 out or interacting with other people where you knew he had  
10:17:22 13 used drugs close in time to that?

10:17:26 14 A. Yes.

10:17:26 15 Q. And did he appear to be under the influence in those  
10:17:29 16 settings or was he showing those signs you saw?

10:17:33 17 A. Sometimes yes, and sometimes no.

10:17:37 18 Q. Now in 2017 and 2018, did you and the defendant rent  
10:17:46 19 a house together in Annapolis, Maryland?

10:17:51 20 A. Yes, we did.

10:17:52 21 Q. And approximately from when to when?

10:17:55 22 A. The school year basically.

10:17:57 23 Q. So sort of late, I guess fall '17 through?

10:18:00 24 A. Right.

10:18:01 25 Q. Through fall of '18?

Hallie Biden - direct

10:18:03 1 A. Correct. We ended -- or I ended it early in July.

10:18:09 2 Q. And did the defendant stay at the house with you in  
10:18:13 3 Annapolis in '17 and into '18?

10:18:16 4 A. Yes.

10:18:18 5 Q. And you testified that you saw him using drugs in the  
10:18:23 6 house in Wilmington. The same question for the house in  
10:18:26 7 Annapolis, did you see him using drugs there in '17 and '18?

10:18:31 8 A. Yes.

10:18:32 9 Q. And where in the house in Annapolis, if you recall?

10:18:35 10 A. It varied.

10:18:39 11 Q. Do you know where he kept the drugs?

10:18:42 12 A. Backpack or a car.

10:18:49 13 Q. And what kind of quantities did you see him with?

10:18:53 14 A. That varied as well.

10:18:55 15 Q. And so if you had to put it on a spectrum, what was  
10:19:01 16 sort of the smallest to the largest I guess, because it  
10:19:04 17 varied?

10:19:05 18 A. I don't really know how the quantities, whether it  
10:19:09 19 goes by weight or size, I don't know what you mean.

10:19:12 20 Q. So is the smallest smaller than a marble?

10:19:17 21 A. Sure, yeah.

10:19:18 22 Q. And would the biggest be, the size of a ping pong  
10:19:23 23 ball, bigger than that, smaller than that?

10:19:27 24 A. Maybe a ping pong ball, maybe a little bigger  
10:19:31 25 sometimes.

Hallie Biden - direct

10:19:31 1 Q. Were there times when you saw him with multiple ping  
10:19:36 2 pong ball size rocks at a time?

10:19:39 3 A. Occasionally, maybe.

10:19:40 4 Q. Did you discuss his drug use with him at the house in  
10:19:44 5 Annapolis in '17 and '18?

10:19:46 6 A. I did.

10:19:47 7 Q. What did you discuss, I'm not looking for exact  
10:19:49 8 quotes, but what did you discuss?

10:19:52 9 A. That this can't go on, we can't do this, a lot of,  
10:19:58 10 you know, back and forth with that.

10:20:03 11 Q. And what did he say about his drug use?

10:20:07 12 A. It kind of would go back and forth, sometimes, you  
10:20:12 13 know, leave me alone, I'm fine, I don't have a problem, and  
10:20:16 14 other times, yes, I do, and I, you know, I'll figure it out  
10:20:22 15 my way.

10:20:23 16 Q. Did he talk about it in terms of an addiction or  
10:20:28 17 words to that effect or like that?

10:20:30 18 A. Sometimes, yes.

10:20:36 19 Q. During the time you were aware of him using drugs,  
10:20:39 20 was he also drinking?

10:20:40 21 A. Yes.

10:20:40 22 Q. And did the two go hand in hand?

10:20:47 23 A. Not always hand in hand, but they were both issues.

10:20:52 24 Q. Was he frequently using both substances at the same  
10:21:00 25 time?



Hallie Biden - direct

10:21:00 1 A. Yes.

10:21:07 2 Q. So the same question for the house in Annapolis, how  
10:21:11 3 frequently was he using when he was with you at the house in  
10:21:15 4 Annapolis?

10:21:16 5 A. It became more and more frequently.

10:21:19 6 Q. And so, what did that -- what did that look like?

10:21:25 7 A. Well, he didn't -- he probably stayed there maybe  
10:21:31 8 less than 50 percent of the time. So --

10:21:36 9 Q. So when he was there, how frequently was it?

10:21:38 10 A. When he was there, I think it was frequent. Daily,  
10:21:44 11 if that's how you're asking, yes.

10:21:47 12 Q. Okay. And when he was using I guess daily, how long  
10:21:51 13 would it go between I guess uses, if that's the right word?

10:21:56 14 A. Generally you know, I don't know, eight hours.

10:22:02 15 Q. So there were stretches of time in between when he  
10:22:05 16 was using, when you observed when he wasn't using?

10:22:08 17 A. Yes.

10:22:10 18 THE COURT: Can you just speak clear, you were  
10:22:13 19 talking about using alcohol.

10:22:14 20 MR. WISE: I'm sorry, I'll be clear.

10:22:16 21 BY MR. LOWELL:

10:22:16 22 Q. I'm focused on using, smoking crack at that time?

10:22:20 23 A. Okay.

10:22:20 24 Q. What were-- what were the intervals, if that's the  
10:22:25 25 right word, in between when you saw him using crack?

Hallie Biden - direct

10:22:29 1 A. You mean what were the breaks?

10:22:31 2 Q. What were the breaks.

10:22:33 3 A. Sleeping or when there was some obligation.

10:22:38 4 Q. Okay. So similar question as I asked from the  
10:22:41 5 Wilmington house, when you were with him in Annapolis, in  
10:22:45 6 these breaks when he wasn't using, was he interacting with  
10:22:49 7 other people?

10:22:51 8 A. Not when I -- he was really only there at the house  
10:22:59 9 when he was there. So I didn't --

10:23:01 10 Q. Was there ever anyone at the house besides the two of  
10:23:05 11 you?

10:23:06 12 A. Not often.

10:23:09 13 Q. But were there occasions where there were?

10:23:12 14 A. Yes.

10:23:12 15 Q. Like other family members?

10:23:14 16 A. Yes.

10:23:15 17 Q. And your children?

10:23:17 18 A. Yes.

10:23:17 19 Q. And were his children sometimes there as well?

10:23:21 20 A. No.

10:23:22 21 Q. Friends or acquaintances?

10:23:24 22 A. Occasionally.

10:23:26 23 Q. And when other people were at the house, was he able  
10:23:32 24 to use the word you used, "function" with them?

10:23:35 25 A. Yes.

Hallie Biden - direct

10:23:35 1 Q. And were there times when you knew he had used drugs  
10:23:40 2 but the signs you described weren't apparent, I guess, when  
10:23:45 3 he was interacting with other people?

10:23:48 4 A. Yes.

10:23:48 5 Q. And you said also for, I think you said events or  
10:23:52 6 something, did you understand he was going out to do other  
10:23:55 7 things as well?

10:23:56 8 A. Right. Yes.

10:23:58 9 Q. Did he ever try and hide his drug use from you in  
10:24:03 10 this period in '17 and '18?

10:24:07 11 A. I don't recall.

10:24:12 12 Q. Did he ever try and hide it, to your knowledge, from  
10:24:15 13 other people like members of your family?

10:24:18 14 A. Yes.

10:24:18 15 Q. At some point did he start going to California?

10:24:24 16 A. I didn't know where he was going.

10:24:27 17 Q. Okay. At some point did you go to California to  
10:24:30 18 visit him?

10:24:31 19 A. I did.

10:24:31 20 Q. And approximately when was that?

10:24:33 21 A. I believe it was around June of 2018.

10:24:38 22 Q. Okay. And what was the first place you remember  
10:24:42 23 staying when you went to California to visit him?

10:24:45 24 A. The Roosevelt Hotel.

10:24:50 25 Q. And when you went to visit him in the Roosevelt

Hallie Biden - direct

10:24:53 1 Hotel, was he using drugs? Was he smoking crack then?

10:24:57 2 A. Yes.

10:24:58 3 Q. And how frequently was it then?

10:25:11 4 A. Frequently.

10:25:12 5 Q. How long did you stay at that time?

10:25:16 6 A. A couple of days, I believe, I'm not sure exactly.

10:25:22 7 Q. At that point were you also using drugs?

10:25:26 8 A. Yes.

10:25:27 9 Q. And who had introduced you to it?

10:25:32 10 A. Hunter did.

10:25:34 11 Q. And was it also crack?

10:25:36 12 A. Yes. It was a terrible experience that I went  
10:25:42 13 through, and I'm embarrassed and I'm ashamed, and I regret  
10:25:47 14 that period of my life.

10:25:54 15 Q. And at some point did you stop, were you able to  
10:25:57 16 stop?

10:25:58 17 A. Yes.

10:25:58 18 Q. And when was that?

10:25:59 19 A. August of 2018.

10:26:02 20 Q. During the time you were with him in June, did you go  
10:26:09 21 out, did you do other things with him while you were in Los  
10:26:14 22 Angeles?

10:26:14 23 A. It was -- no, not really because it was a bit  
10:26:19 24 volatile, you know, like arguing.

10:26:24 25 Q. You testified at the beginning that you were in a

Hallie Biden - direct

10:26:28 1 romantic relationship. By the, I guess by the summer, what  
10:26:31 2 was the state of the relationship?

10:26:33 3 A. Off and on, and so we wouldn't talk often and then we  
10:26:44 4 would and be together and then not again.

10:26:48 5 Q. You testified you left after a couple of days?

10:26:52 6 A. Yeah.

10:26:53 7 Q. And then did you ever go back to LA when he was  
10:26:57 8 there?

10:26:58 9 A. In August I did.

10:27:00 10 Q. Where did you stay when you went in August?

10:27:02 11 A. I was staying with a friend.

10:27:04 12 Q. And how long did you see the defendant for when you  
10:27:07 13 went back in August?

10:27:09 14 A. Just a few hours.

10:27:11 15 Q. Where was he at that time?

10:27:13 16 A. He was at a treatment center.

10:27:15 17 Q. And you said you just stayed for a few hours?

10:27:17 18 A. Yeah, I was visiting him at the treatment center.

10:27:21 19 Q. Okay. All right. After you saw him for a few hours  
10:27:34 20 in August, moving forward in time, did you see him again in  
10:27:38 21 October of 2018?

10:27:41 22 A. I did.

10:27:42 23 Q. And did he come to stay with you either late at night  
10:27:48 24 on October 22nd or early in the morning on October 23rd?

10:27:51 25 A. Yes.

Hallie Biden - direct

10:27:52 1 Q. Do you remember which it was, whether it was late the  
10:27:54 2 night before or early the following morning?

10:27:57 3 A. I believe it was in the morning, but I don't recall  
10:28:01 4 -- it was kind of a typical pattern, so I don't recall  
10:28:04 5 exactly when he got there.

10:28:06 6 Q. And what was the typical pattern?

10:28:09 7 A. Where I didn't know where he was and I had been  
10:28:12 8 trying to reach him for, it could be weeks. And then  
10:28:16 9 talking and then him coming and spending the night.

10:28:22 10 Q. So you were awake when he got there, whether it was  
10:28:27 11 the night before or the morning of?

10:28:29 12 A. Yes. Likely morning.

10:28:32 13 Q. Likely morning. What did you observe about him early  
10:28:35 14 in the morning on the 23rd?

10:28:38 15 A. He was tired, exhausted, looked like he hadn't slept.

10:28:46 16 Q. Did you observe anything else about him?

10:28:52 17 A. I don't know.

10:28:53 18 Q. Did it look like he had been using drugs?

10:28:56 19 A. Could have been.

10:28:57 20 Q. Is that something you observed?

10:29:00 21 A. Yes.

10:29:01 22 Q. And what did he do after he got there?

10:29:07 23 A. He went to bed.

10:29:10 24 Q. And what did you do after he went to bed?

10:29:13 25 A. I went to clean out his car and his stuff hoping that

Hallie Biden - direct

10:29:20 1 you know, after a certain amount of hours when he woke back  
10:29:25 2 up we could, you know, help him start a new and deal with  
10:29:30 3 stuff.

10:29:30 4 Q. When you say help him start a new and deal with  
10:29:34 5 stuff, what do you mean?

10:29:35 6 A. Get sober if he wasn't.

10:29:38 7 Q. And when you say sober, do you mean drugs or alcohol  
10:29:42 8 or both?

10:29:43 9 A. Both.

10:29:44 10 Q. Based on what --

10:29:45 11 A. All.

10:29:46 12 Q. Based on what you had observed?

10:29:48 13 A. Yeah.

10:29:48 14 Q. And when you said you cleaned out his car; is that  
10:29:52 15 right?

10:29:52 16 A. Yes. Or truck.

10:29:54 17 Q. Or truck. Right.

10:29:55 18 Did he drive a truck to your house early that  
10:29:59 19 morning?

10:30:00 20 A. Yes.

10:30:00 21 Q. And where was the truck parked?

10:30:03 22 A. On the lawn on the side of the house.

10:30:09 23 Q. Is there a lot somewhere near your house?

10:30:13 24 A. I don't -- a lot? A parking lot?

10:30:18 25 Q. Something that would be referred to as a lot?

Hallie Biden - direct

10:30:21 1 A. I don't -- not, there is a couple of properties in my  
10:30:25 2 area.  
10:30:25 3 Q. You said he parked on the lawn at your house?  
10:30:27 4 A. Right.  
10:30:27 5 Q. And while he was asleep, you went in the car?  
10:30:30 6 A. To clean it out.  
10:30:31 7 Q. What were you looking for?  
10:30:33 8 A. I was looking to clean it out, I wasn't necessarily  
10:30:36 9 looking for anything. So...  
10:30:42 10 Q. Was that the first time you had gone through a car he  
10:30:45 11 had been driving?  
10:30:46 12 A. No, that was kind of a pattern as well.  
10:30:48 13 Q. What was the purpose of cleaning out the car, what  
10:30:52 14 was looked for?  
10:30:53 15 A. To clean out if there was any drugs or alcohol in the  
10:30:56 16 car.  
10:30:56 17 Q. And you said this was a pattern. Had you done this  
10:31:00 18 on more than one occasion?  
10:31:01 19 A. Yes.  
10:31:02 20 Q. And why did you do that?  
10:31:04 21 A. In an effort to help him get or stay sober.  
10:31:10 22 Q. And that was including early in the morning on the  
10:31:13 23 23rd?  
10:31:13 24 A. Yes.  
10:31:13 25 Q. Were there times also when your children cleaned out



Hallie Biden - direct

10:31:16 1 his car looking for drugs?

10:31:18 2 A. Yes.

10:31:19 3 Q. Or other things?

10:31:21 4 A. Yes.

10:31:21 5 Q. When you searched his car, what did you find? Or  
10:31:37 6 when you cleaned out his car, to use your words, when you  
10:31:41 7 went through the car?

10:31:42 8 A. Aside from trash and clothes.

10:31:45 9 Q. Full of trash and clothes?

10:31:47 10 A. Yeah. I did find some remnants of crack cocaine and  
10:31:52 11 some paraphernalia.

10:31:56 12 Q. And just to be clear, this is the morning of the  
10:31:59 13 23rd?

10:32:00 14 A. Yes. Oh, and the gun, obviously.

10:32:06 15 Q. Understood. I'll ask you about that. I'm going to  
10:32:11 16 ask you about each of the things you mentioned, the remnants  
10:32:14 17 of crack cocaine and paraphernalia and the gun, before I do  
10:32:19 18 that, about at some point did you have to take your kids to  
10:32:23 19 school that morning?

10:32:24 20 A. I don't remember if it was a school day, of course I  
10:32:27 21 would have, I always took my kids to school.

10:32:30 22 Q. Now you testified that you found remnants of crack  
10:32:33 23 cocaine, paraphernalia, and a gun, correct?

10:32:35 24 A. Yes.

10:32:36 25 Q. What does remnants of crack cocaine mean, what does

Hallie Biden - direct

10:32:38 1 that look like?

10:32:39 2 A. A dusting of powder, I guess.

10:32:43 3 Q. And how did that come about, how did the remnants get  
10:32:47 4 left behind?

10:32:48 5 A. As you're using it, it breaks into pieces and a lot  
10:32:51 6 of it gets lost and dropped.

10:32:54 7 Q. And then you said you found paraphernalia?

10:32:58 8 A. Yeah. I don't remember exactly what that was, you  
10:33:03 9 know, like because I had seen that and cleaned that out  
10:33:09 10 previously, so I don't recall exactly what.

10:33:11 11 Q. Generally speaking, what kind of paraphernalia would  
10:33:14 12 you find when you did go through the car?

10:33:16 13 A. It would be crack pipes or broken pipes.

10:33:21 14 Q. And then you testified you found a gun, right?

10:33:25 15 A. Yes.

10:33:25 16 Q. Is that the first time you ever found a gun?

10:33:29 17 A. Yes.

10:33:29 18 Q. Had you ever seen a gun up close like that before?

10:33:33 19 A. No.

10:33:33 20 Q. Where did you find the gun in the truck?

10:33:36 21 A. In the console, the arm console, it was like a box.

10:33:43 22 Q. Was the box part of the truck like in the --

10:33:46 23 A. Yes.

10:33:47 24 Q. Was that box locked?

10:33:48 25 A. It had a lock, but the lock had been broken. So it

Hallie Biden - direct

10:33:53 1 was like two inches ajar, you couldn't like click it.

10:33:59 2 Q. I see. And how had you gotten in the car? Was the  
10:34:06 3 car locked?

10:34:08 4 A. I think it was open.

10:34:10 5 Q. Did you have keys to the truck in any event?

10:34:13 6 A. I don't know, I don't have my own keys.

10:34:17 7 Q. I'm sorry, I didn't hear you?

10:34:19 8 A. I don't have my own keys, I don't have a set of keys,  
10:34:23 9 I don't remember if it was open or the keys were in the car  
10:34:25 10 or the keys were sitting out when he went to sleep.

10:34:28 11 Q. But the console you said was unlocked and actually  
10:34:33 12 the lock was broken and it was actually up a couple of  
10:34:36 13 inches, you said?

10:34:38 14 A. Yes.

10:34:40 15 MR. WISE: Can I have government Exhibit 1?  
10:34:46 16 Your Honor, this is the same, in the same condition we  
10:34:49 17 showed yesterday. Can I approach the witness with it?

10:34:53 18 THE COURT: Yes.

10:34:55 19 BY MR. WISE:

10:34:57 20 Q. Ms. Biden, do you see government Exhibit 1?

10:34:59 21 A. Yes.

10:35:00 22 Q. Is that the gun you found?

10:35:01 23 A. I mean, I can't know if that's the one, but it looks  
10:35:05 24 like it.

10:35:05 25 Q. Have you ever seen another pistol?

Hallie Biden - direct

10:35:08 1 A. No.

10:35:09 2 Q. Does this look like the pistol you found?

10:35:12 3 A. Yes.

10:35:19 4 Q. And just so it's clear, I think the jurors saw this,  
10:35:26 5 but can I have government Exhibit 1A on the screen. So this  
10:35:30 6 is the pistol, this looks like the pistol you found?

10:35:35 7 A. Yes.

10:35:35 8 Q. Did you find any ammunition with the gun, any  
10:35:38 9 bullets?

10:35:39 10 A. Yes.

10:35:41 11 Q. You can take that down.

10:35:43 12 When you found the gun and the bullets, what did  
10:35:46 13 you do?

10:35:47 14 A. I panicked and I wanted to get rid of them.

10:35:54 15 Q. Why did you panic?

10:35:57 16 A. Because I didn't want him to hurt himself or I didn't  
10:36:03 17 want my kids to find it and hurt themselves, and I just  
10:36:09 18 panicked and wanted to get rid of it.

10:36:12 19 Q. What did you do then?

10:36:14 20 A. I was looking around for like what to do, I wasn't  
10:36:18 21 sure. I considered hiding it somewhere but then I was  
10:36:23 22 afraid one of my children would find it. So then I wanted  
10:36:27 23 -- I thought about throwing it away. So I remember going  
10:36:33 24 back into the house and finding like something to put it in.

10:36:37 25 Q. What was it that you found?

Hallie Biden - direct

10:36:38 1 A. Like a -- like just like a little gift shopping bag.

10:36:43 2 Q. What color was it, do you remember?

10:36:46 3 A. I don't remember, dark.

10:36:48 4 Q. Okay.

10:36:48 5 A. And then I went back out, like I didn't even -- like  
10:36:53 6 I'm not -- I was afraid to touch it, I didn't know if it was  
10:36:56 7 loaded, so I was trying to kind of put it in the bag and  
10:37:01 8 then I realized that it was so visible, so then I was  
10:37:04 9 looking around for something to put it in, which was the  
10:37:08 10 pouch, and then I --

10:37:10 11 Q. So you were looking around the car for something?

10:37:12 12 A. I was looking around the car while sitting there like  
10:37:15 13 what could I wrap this, what could I put this in and then  
10:37:18 14 put it back in the bag so I could take it and get it off my  
10:37:23 15 property and throw it away.

10:37:24 16 Q. I think you said you found a pouch in the car?

10:37:27 17 A. I did.

10:37:29 18 Q. I'm going to show you what's been marked -- I'm going  
10:37:32 19 to show you what's been marked as government Exhibit 4.

10:37:40 20 A. Yes.

10:37:40 21 Q. Is that the pouch?

10:37:41 22 A. Yes.

10:37:42 23 MR. WISE: Your Honor, I move in admission  
10:37:44 24 government Exhibit 4.

10:37:45 25 MR. LOWELL: No objection.

Hallie Biden - direct

10:37:46 1 THE COURT: Thank you. It's admitted.  
10:37:48 2 (Exhibit No. 4 was admitted into evidence.)

10:37:49 3 MR. WISE: I would like to have government  
10:37:52 4 Exhibit 4A. I also move this in admission. The next one.  
10:38:00 5 Next one.

10:38:02 6 BY MR. WISE:

10:38:02 7 Q. Is this the pouch that I just showed you?

10:38:04 8 A. Yes.

10:38:05 9 Q. Opened up?

10:38:07 10 THE COURT: So you offered the 4(a) into  
10:38:09 11 evidence?

10:38:11 12 MR. WISE: Yes, I'm sorry.

10:38:11 13 THE COURT: Was there an objection?

10:38:12 14 MR. LOWELL: No objection, Your Honor.

10:38:13 15 THE COURT: Thank you. I just want to make sure  
10:38:15 16 we have it clear so we can post the right things so it's  
10:38:18 17 admitted.

10:38:19 18 MR. WISE: Thank you, Your Honor. My apologies.

10:38:22 19 (Exhibit No. 4A was admitted into evidence.)

10:38:22 20 BY MR. WISE:

10:38:23 21 Q. Had you seen the defendant with pouches before?

10:38:26 22 A. Yes, but not for a while.

10:38:29 23 Q. And what did he keep in the pouches?

10:38:31 24 A. Sometimes business cards, sometimes drugs, sometimes,  
10:38:38 25 you know, any little things.

Hallie Biden - direct

10:38:43 1 Q. So you said you found the pouch in the car and you  
10:38:45 2 put the gun inside?

10:38:46 3 A. I did.

10:38:47 4 Q. Did you put anything else in it, if you remember?

10:38:49 5 A. The bullets.

10:38:50 6 Q. And then what did you do with the pouch that now had  
10:38:53 7 the gun and the bullets in it?

10:38:55 8 A. I put it into the little shopping bag that kind of  
10:38:58 9 had a handle so that I could not touch it when I was  
10:39:03 10 walking.

10:39:04 11 Q. Okay. And then after you did that, what did you do  
10:39:13 12 next?

10:39:13 13 A. I took it to the grocery store up the road and I  
10:39:23 14 threw it away.

10:39:24 15 Q. And you took it to the grocery store up the road and  
10:39:27 16 threw it away?

10:39:28 17 A. Threw it in the outside trash can.

10:39:30 18 Q. And which grocery store was that?

10:39:33 19 A. Janssen's Market.

10:39:39 20 MR. WISE: Your Honor, we have a video, the  
10:39:42 21 video from Janssen's Market. If there is no objection, I  
10:39:46 22 would enter that into evidence and play it.

10:39:48 23 MR. LOWELL: There is no objection.

10:39:49 24 THE COURT: It's admitted.

10:39:52 25 MR. WISE: This is 39A, Ms. Vo.

Hallie Biden - direct

10:39:54 1 (Exhibit No. 39A was admitted into evidence.)

10:39:54 2 BY MR. WISE:

10:39:55 3 Q. Do you see that on the screen, Ms. Biden?

10:39:57 4 A. Yes.

10:39:58 5 Q. What's that, just generally speaking the set up where  
10:40:02 6 we are?

10:40:02 7 A. The parking lot at Janssen's.

10:40:04 8 Q. The parking lot at Janssen's. Can we play the video?

10:40:13 9 (Video played.)

10:40:25 10 Is that your car?

10:40:26 11 A. Yes. I mean, I believe so.

10:40:58 12 Q. Is that you, Mrs. Biden?

10:41:03 13 A. Yes.

10:41:04 14 Q. What you got out of the back, or getting out, we'll  
10:41:08 15 see in a second. Is that the bag?

10:41:11 16 A. Yes.

10:41:22 17 Q. And is that you putting it in the trash can?

10:41:25 18 A. Yes.

10:41:25 19 Q. And then what did you do after that, did you go  
10:41:29 20 inside the store?

10:41:30 21 A. I forget. Probably, but I mean, I was so flustered  
10:41:35 22 from the whole thing, so, I mean, if I see myself going in,  
10:41:41 23 then yes. It was a stupid idea now, but I was panicking, so  
10:41:50 24 I threw it in the trash.

10:41:51 25 MR. WISE: I would move in evidence 39B, which



Hallie Biden - direct

10:41:54 1 is a clip from inside the store, unless there is an  
10:41:57 2 objection.

10:41:57 3 MR. LOWELL: There is no objection.

10:41:58 4 THE COURT: Thank you. It's admitted.

10:42:01 5 MR. WISE: If we could have 39B.

10:42:03 6 (Exhibit No. 39B was admitted into evidence.)

10:42:04 7 BY MR. WISE:

10:42:04 8 Q. Is that the inside of the store?

10:42:06 9 A. Yes.

10:42:07 10 Q. If you could play it.

10:42:10 11 (Video played.)

10:42:13 12 Is that you coming in?

10:42:15 13 A. Yes.

10:43:17 14 Q. After this, did you go back to your car and leave the  
10:43:20 15 store?

10:43:21 16 A. I don't -- I mean, I -- did I shop, I don't recall.

10:43:27 17 Q. I'm asking, at some point did you leave the store?

10:43:30 18 A. Yes.

10:43:30 19 Q. Did you go back home?

10:43:31 20 A. I did.

10:43:31 21 Q. When you went home, did you discover that the  
10:43:35 22 defendant had left?

10:43:36 23 A. I can't remember the order of that. I can't remember  
10:43:40 24 if I saw him back at home or if he called me at that point.

10:43:45 25 Q. So at some point, though, did he leave your home

Hallie Biden - direct

10:43:48 1 either when you were there or when you weren't there?

10:43:51 2 A. I -- I don't know.

10:43:56 3 Q. When you got home, was he still there?

10:44:02 4 A. I -- that's where I'm not sure if I talked to him on  
10:44:06 5 the phone or he was back at my house and he had already  
10:44:10 6 left.

10:44:10 7 Q. So, and we're going to look at some messages. At  
10:44:14 8 some point you did communicate with him, I guess later?

10:44:18 9 A. Correct.

10:44:18 10 Q. But do you have a memory of when you got back to the  
10:44:21 11 house, you discovered he had left or was he still there?

10:44:25 12 A. That's what I'm not sure.

10:44:29 13 Q. Do you recall telling when you were interviewed by  
10:44:31 14 the police and we'll talk about this later, that at some  
10:44:35 15 point he had left your residence that morning?

10:44:37 16 A. I don't recall the -- him leaving or not leaving. I  
10:44:43 17 remember him telling me to go back and file the police  
10:44:47 18 report, so that -- what I'm saying, I can't remember if that  
10:44:50 19 was on the phone or if that was in person.

10:44:52 20 Q. Okay. But you're clear that he was at your house  
10:44:57 21 that morning?

10:44:58 22 A. Yes.

10:45:00 23 Q. Now you said either in person or over the phone --  
10:45:05 24 well, I guess at some point, did he learn what you had --  
10:45:09 25 that you had thrown the gun away?

Hallie Biden - direct

10:45:11 1 A. Correct. Yes.

10:45:12 2 Q. And either in person or over the phone, what did he  
10:45:17 3 tell you to do?

10:45:18 4 A. To go back to the store and -- first go look for it,  
10:45:23 5 and then when I went back to look for it and didn't find it,  
10:45:26 6 he told me to file a police report for it because it was  
10:45:30 7 registered in his name.

10:45:32 8 Q. Okay. And did you do that, did you go back to the  
10:45:35 9 store to try to get it?

10:45:36 10 A. I did, yes.

10:45:38 11 MR. WISE: Your Honor, I would offer government  
10:45:40 12 Exhibit 39D, which is a recording back at the store of  
10:45:44 13 Ms. Biden coming back, unless there is an objection.

10:45:47 14 MR. LOWELL: One second, judge. What's the  
10:45:50 15 number?

10:45:52 16 MR. WISE: 39D.

10:45:55 17 MR. LOWELL: No objection.

10:45:56 18 THE COURT: Thank you. It's admitted.

10:45:58 19 ( Exhibit No. 39D was admitted into evidence.)

10:46:06 20 MR. WISE: You can play the clip.

10:46:24 21 (Video played. )

10:46:29 22 BY MR. WISE:

10:46:30 23 Q. Is that you coming back, Ms. Biden?

10:46:32 24 A. Yes.

10:46:38 25 Q. Is that you in the shop?

Hallie Biden - direct

10:46:42 1 A. Yes, outside of the shop.

10:46:43 2 Q. And are you looking for it?

10:46:45 3 A. Yes.

10:47:32 4 Q. Were you able to find it?

10:47:34 5 A. No.

10:47:34 6 Q. And you had nothing in your hand when you got back in  
10:47:37 7 the car, right?

10:47:38 8 A. Right.

10:47:42 9 Q. What did you do after you couldn't find it?

10:47:49 10 A. I think I went in and talked to them at Janssen's and  
10:47:55 11 asked if they had any -- you know did they take the trash  
10:47:58 12 out or was there a security camera, tried to kind of figure  
10:48:02 13 that out.

10:48:04 14 Q. Okay.

10:48:05 15 A. And then eventually I filed a police report while I  
10:48:09 16 was at Janssen's with the manager that worked there.

10:48:15 17 Q. I think you testified that you communicated with the  
10:48:19 18 defendant --

10:48:19 19 A. Throughout that.

10:48:20 20 Q. Throughout that.

10:48:23 21 In that time period, how did you communicate --  
10:48:25 22 in October of 2018 and then moving forward in time, how did  
10:48:29 23 you communicate with the defendant?

10:48:31 24 A. Cell phone.

10:48:31 25 Q. Including messages on the cell phone?

Hallie Biden - direct

10:48:35 1 A. Texting, correct.

10:48:37 2 Q. Texting.

10:48:37 3 MR. WISE: I'm going to ask if we could have  
10:48:42 4 government Exhibit 18.

10:48:46 5 BY MR. WISE:

10:48:47 6 Q. And this should be in front of you, Ms. Biden, that  
10:48:53 7 binder. This is already in evidence, and on the monitor, so  
10:48:58 8 whatever is more convenient or comfortable for you, you can  
10:49:01 9 look at it on the monitor or on the book, I'm going to be  
10:49:05 10 enlarging some things so if you can't see it clearly, I can  
10:49:10 11 do that.

10:49:11 12 A. Okay.

10:49:11 13 Q. If we could go to page 29. Just to orient us, if we  
10:49:20 14 look across the top, you'll see it's got row, date, time,  
10:49:25 15 from, to, and message. Do you see that?

10:49:30 16 A. Yes.

10:49:30 17 Q. And I'm not -- the next three columns I'm not going  
10:49:34 18 to be asking you about.

10:49:36 19 And at that time, were you using a cell phone  
10:49:40 20 that's at that number that ends in 3774?

10:49:44 21 A. Yes.

10:49:44 22 Q. Now, the first message is from October the 13th of  
10:49:55 23 2018, so before the events that we just saw, right?

10:49:58 24 A. Yes.

10:49:58 25 Q. And the next message, or the message is, "I'm using

Hallie Biden - direct

10:50:03 1 this until my other phone arrives by mail." Do you see  
10:50:06 2 that?

10:50:06 3 A. Yes.

10:50:07 4 Q. And that's with the number ending 2473?

10:50:11 5 A. Yes.

10:50:11 6 Q. At this time when you were communicating with the  
10:50:14 7 defendant, was he using a phone number that had actually  
10:50:17 8 been associated with his former spouse?

10:50:19 9 A. That number, yes.

10:50:20 10 Q. That number. And if we go to the next page, at the  
10:50:27 11 top, did you say "that freaked me out"?

10:50:29 12 A. Yes.

10:50:29 13 Q. And then he said "this is Kathleen, and I'm going to  
10:50:34 14 beat you up. If you come out of that." And you say,  
10:50:37 15 "hello." So there is a gap. So just to be clear, this  
10:50:42 16 number, you knew you were talking to the defendant even  
10:50:45 17 though it had been a number you had previously known his  
10:50:48 18 wife to use, ex-wife to use?

10:50:50 19 A. Correct.

10:50:51 20 Q. And then later in that same day, it looks like you  
10:50:56 21 text him "hello" then "hi, are you on your way home? Call  
10:51:01 22 me please." Right?

10:51:03 23 A. Yes.

10:51:04 24 Q. If we go to the next page, he responds "five."

10:51:10 25 Five." You can leave them. I think we can see it okay.

Hallie Biden - direct

10:51:15 1 You say "you okay? Where are you? Truthfully." This is  
10:51:20 2 all around 8:14, 8:15 on the 13th, right?

10:51:24 3 A. Yes.

10:51:25 4 Q. If we go to the next page. He says "buy. I  
10:51:32 5 guessing." So buying with an I guess in the middle, do you  
10:51:36 6 see that?

10:51:36 7 A. Yes.

10:51:37 8 Q. And then he tells you "hold", we're now at 8:18 on  
10:51:41 9 that day, on the 13th. Did you know what he was buying?

10:51:45 10 A. I mean, I -- I would guess, but I mean I didn't know  
10:51:50 11 for sure.

10:51:51 12 Q. Okay. And if we go to the next page. You asked him  
10:51:56 13 "where are you?" Or he asked you, "where are you?" He's  
10:52:00 14 green, right, you're blue. And then you say "where? I'm  
10:52:05 15 home." And then you say to him "in DE or D.C.," right?

10:52:12 16 A. Yes,

10:52:14 17 Q. And he responds "New Castle.", right.

10:52:19 18 Go to the next page. And then you tell him,  
10:52:22 19 "Please be safe. I just want you safe."

10:52:28 20 Now that's at 8:23, 8:24. Now after 9 o'clock,  
10:52:33 21 he asked, "Do you want to go to the patio?" And then says  
10:52:33 22 "Patio."

10:52:37 23 What is that? Do you know what that is?

10:52:40 24 A. I don't know if that was --

10:52:43 25 Q. Is it like a bar or restaurant or something?

Hallie Biden - direct

10:52:46 1 A. Not that I know of.

10:52:47 2 Q. If we go to the next page. And then he says "yes or  
10:52:51 3 no?" You asked, "sure, what time?" Sort of later it looks  
10:52:57 4 like. And then he says "trying to find out how long they  
10:53:01 5 will be there." And then you say, "what do you think?"  
10:53:04 6 Again, this is all still on the 13th.

10:53:06 7 If we go to the next page. You say, "do you  
10:53:11 8 want to go? I'll do whatever you want. Love you." And  
10:53:14 9 then there is a question mark now a little before 10:00,  
10:53:18 10 right?

10:53:18 11 A. Uh-huh.

10:53:19 12 Q. And then he responds, "I'll be home in an hour."  
10:53:22 13 Right? Do you see that?

10:53:23 14 A. Yes.

10:53:24 15 Q. And then a few minutes later, "you okay? We staying  
10:53:30 16 home?" That's what you said, right?

10:53:32 17 A. Yes.

10:53:32 18 Q. We go to the next page. Now at 10:25, you ask "why  
10:53:38 19 won't you answer my calls? Where are you? Are you with  
10:53:41 20 someone?" And then if we could, the next, in the next one  
10:53:44 21 is kind of small, if you could enlarge the next three. Does  
10:53:50 22 he respond "yes." It's in response to your question are you  
10:53:55 23 with someone. "Yes, Bernard hangs at 7/11 on Greenhill and  
10:54:02 24 Lancaster, I'm now off Maryland Avenue behind Blue Rocks  
10:54:07 25 Stadium, waiting for a dealer named Mookie", do you see



Hallie Biden - direct

10:54:10 1 that?

10:54:10 2 A. Yes.

10:54:10 3 Q. When he said dealer, what did you understand him to  
10:54:14 4 mean?

10:54:14 5 A. That he was buying crack cocaine.

10:54:17 6 Q. And then he said "his brother L is getting in car  
10:54:21 7 now, I'm -- he has my money and I'm getting pissed." Do you  
10:54:30 8 see that?

10:54:30 9 A. Yes.

10:54:33 10 Q. And that was at about 10:30 on the 13th, right?

10:54:40 11 A. Yes.

10:54:41 12 Q. Now if we move -- we can come out of that and go to  
10:54:45 13 the next page. We move forward in time to the next day,  
10:54:48 14 10:14 in the evening, do you see that at the top?

10:54:52 15 A. Yes.

10:54:52 16 Q. And did you text him "I called you 500 times in the  
10:54:56 17 past 24 hours and you no answer. Practice what you preach."  
10:55:01 18 Do you see those messages?

10:55:02 19 A. Yes.

10:55:02 20 Q. And then if you can enlarge the one on the bottom,  
10:55:06 21 his response at 5:37, is his response "I was sleeping on a  
10:55:11 22 car smoking crack on 4th Street and Rodney." Is that his  
10:55:15 23 response?

10:55:15 24 A. Yes.

10:55:20 25 Q. And then if we go to the next page, he asked "where

Hallie Biden - direct

10:55:26 1 were you?" And then he says "there's my truth." And then  
10:55:31 2 repeats "where were you?" Do you see that?

10:55:36 3 A. Yes.

10:55:36 4 Q. If we go to the next day, 10:15, at the bottom if you  
10:55:42 5 could enlarge that, please?

10:55:44 6 You text, "I just want to help you get sober,  
10:55:48 7 nothing that I do or you do is working. I'm sorry." Do you  
10:55:52 8 see that?

10:55:52 9 A. Yes.

10:55:52 10 Q. And then if we go to the next page. You text, "I'm  
10:55:59 11 afraid you are going to die." Do you see that?

10:56:02 12 A. Yes.

10:56:03 13 Q. Was that a fear you had at this time?

10:56:07 14 A. Yes.

10:56:09 15 Q. Were you afraid of him overdosing?

10:56:16 16 A. Maybe, or you know, suicide, you know, I didn't know.

10:56:22 17 Q. And then he responds on the 15th, a little bit later,  
10:56:27 18 "what one thing have you done to help me get sober, Hallie?"

10:56:34 19 Had you tried to help him get sober?

10:56:37 20 A. Yeah.

10:56:37 21 Q. And when you tried to get -- help him get sober, was  
10:56:42 22 it both to get off of crack and to stop drinking?

10:56:46 23 A. Yes.

10:56:47 24 Q. And then he says, "I'm almost there." And then he  
10:56:51 25 says "I'm here can't get in." And then if we go to the next

Hallie Biden - direct

10:56:56 1 page. I think that's it.

10:57:00 2 Now, if we move to the next page, 42. So that  
10:57:03 3 was 10:15, if we go to the next page, 42. And if you could  
10:57:08 4 enlarge. This is now 10:23, this is the, just to remind us,  
10:57:14 5 this is the morning where you found the gun in the unlocked  
10:57:17 6 console, right?

10:57:18 7 A. Okay, yes.

10:57:19 8 Q. After he had come to your home, right?

10:57:21 9 A. Yes.

10:57:22 10 Q. And you said you don't remember if you talked to him  
10:57:28 11 or if he -- or I guess if he texted you, right?

10:57:34 12 A. Right.

10:57:35 13 Q. So I guess -- if you remember, did he find that the  
10:57:46 14 gun was missing and ask you about it or do you remember  
10:57:50 15 telling him?

10:57:50 16 A. I did not tell him.

10:57:52 17 Q. You didn't tell him?

10:57:53 18 A. No. I wasn't-- I wasn't planning, I was just going  
10:57:58 19 to pretend like it wasn't me.

10:58:00 20 Q. Okay. So you didn't tell him what you had done with  
10:58:02 21 the gun?

10:58:03 22 A. No.

10:58:03 23 Q. He discovered it?

10:58:05 24 A. Correct.

10:58:05 25 Q. And you don't remember if the initial discussion was

Hallie Biden - direct

10:58:07 1 -- when he discovered it if he was still there or if it was  
10:58:11 2 over the phone or something?

10:58:12 3 A. Correct.

10:58:12 4 MR. LOWELL: It's been asked and answered.

10:58:15 5 MR. WISE: I don't think I have, Your Honor.

10:58:19 6 THE COURT: Don't ask it again.

10:58:21 7 MR. WISE: Thank you, Your Honor.

10:58:23 8 BY MR. WISE:

10:58:24 9 Q. And so he texts you, and this is at 11:45 on the  
10:58:28 10 morning of 10/23, "did you take that from me, Hallie?" What  
10:58:34 11 did you understand him to be referring to when he said "did  
10:58:37 12 you take that from me?"

10:58:39 13 A. The gun.

10:58:40 14 Q. "Are you insane. Tell me now. This is no game. And  
10:58:44 15 you're being totally irresponsible and unhinged." And then  
10:58:48 16 it looks like a few seconds later, tell me now, Hallie. And  
10:58:53 17 then I guess a few minutes after that, he says, "you really  
10:58:59 18 need to help me think right now, Hallie, this is very, very  
10:59:03 19 serious."

10:59:06 20 Right?

10:59:07 21 A. Yes.

10:59:08 22 Q. And then if we move to the next page, page 43, the  
10:59:16 23 last message was at 11:58, now at 12:17, you say "call me."  
10:59:23 24 Right?

10:59:23 25 A. Right.

Hallie Biden - direct

10:59:24 1 Q. So I guess by this point you weren't with him, that's  
10:59:33 2 clear, right, because you asked him to call you. And then  
10:59:39 3 at 1:06, do you remember talking to him after this text?

10:59:45 4 A. Yes.

10:59:46 5 Q. Okay. What do you remember about that?

10:59:48 6 A. That he was angry with me.

10:59:51 7 Q. Okay. And then you respond, "I can't believe this,  
10:59:55 8 you can blame me all you want. I know it was stupid, but  
10:59:59 9 your part is dangerous and negligent. And because of this  
11:00:04 10 and my stupidity for being worried about you, I'm dealing  
11:00:07 11 with insanity and possibly I'm the one going to get in  
11:00:11 12 trouble. Check yourself into a local rehab Hunter, this has  
11:00:15 13 all got to stop. Don't run away again. Please don't  
11:00:19 14 leave."

11:00:24 15 And then about 20 minutes later. You text  
11:00:27 16 "police coming to talk to me now, I'll take full blame. I  
11:00:31 17 don't want to live like this anymore. This too much for me  
11:00:34 18 to handle." Are these messages being sent when you're still  
11:00:38 19 at Janssen's?

11:00:40 20 A. I believe so, probably when we're waiting for the  
11:00:43 21 police to arrive.

11:00:44 22 Q. Okay. And then the next message is several hours  
11:00:51 23 later. If you can bring that out a little bit just to see  
11:00:56 24 the time. It's 6:47, and he text you back, "the fucking FBI  
11:01:01 25 Hallie, it's hard to believe anyone is that stupid. So

Hallie Biden - direct

11:01:04 1 what's my fault here Hallie that you speak of. Owning a gun  
11:01:08 2 that's in a locked car hidden on another property? You say  
11:01:12 3 I invade your privacy. What more can I do than come back to  
11:01:15 4 you to try again and you do this??? Who in their right mind  
11:01:20 5 would trust you to help me get sober? Was it a locked car  
11:01:28 6 on another property?"

11:01:31 7 A. "It was on my property, it was on the back side  
11:01:36 8 yard."

11:01:38 9 Q. If we go to the next page, still on the 23rd, a  
11:01:44 10 minute later, he says "do you want me dead." And then you  
11:01:48 11 respond, "I'm sorry." If we could bring out her messages  
11:01:52 12 because the text gets small at the bottom. "I'm sorry. I  
11:01:55 13 just want you safe. That was not safe. And it was open,  
11:01:59 14 unlocked and windows down, and the kids search your car."

11:02:02 15 Do you see that?

11:02:03 16 A. Yes.

11:02:04 17 Q. Do you remember the windows being down?

11:02:06 18 A. I mean, if I wrote that, then they were.

11:02:11 19 Q. And then you write "you have lost your mind, Hunter,  
11:02:14 20 I'm sorry I handled it poorly today, but you are in a huge  
11:02:17 21 denial about yourself and about that reality that I just  
11:02:20 22 want you safe. You run away like a child and blame me for  
11:02:24 23 your shit, it's to be expected that you go, you prove  
11:02:27 24 repeatedly that you can't stay and really do work on  
11:02:30 25 yourself, it's easier for you to avoid looking within and

Hallie Biden - direct

11:02:34 1 cowardly to constantly point the blame on me." All right.

11:02:39 2 You can take that down.

11:02:40 3 Moving forward in time if we go to the next  
11:02:43 4 page, that was 10:23, page 45. The next message I wanted to  
11:02:47 5 ask you about is on November the 3rd, so now we're less than  
11:02:52 6 a week later, a little more than a week later. If you could  
11:02:56 7 enlarge those three messages. The one at the top is from  
11:03:00 8 him, right?

11:03:02 9 A. Yes.

11:03:03 10 Q. And it he says to you, "I'm a liar and a thief and a  
11:03:07 11 blamer and a user, and I'm delusional and an addict unlike  
11:03:12 12 beyond and above all other addicts that you know, and I've  
11:03:15 13 ruined every relationship that I have ever cherished." Is  
11:03:18 14 that what he wrote?

11:03:20 15 A. Yes.

11:03:20 16 Q. And then you respond, "let's do this right, come home  
11:03:23 17 and talk with the kids, let's tell your family and your kids  
11:03:26 18 the plan and let's stick to it. Everyone adores you and  
11:03:29 19 wants to feel like you are safe and working on sobriety. We  
11:03:33 20 can do this." When you talk on working on sobriety, are you  
11:03:38 21 referring to drugs and alcohol?

11:03:40 22 A. Well, if you're sober, it's all of the above.

11:03:43 23 Q. "We can do this. Then I'll do therapy with you while  
11:03:47 24 you are there. We can talk about everything you want once  
11:03:50 25 you are there." And then the next message, "you are blaming

Hallie Biden - direct

11:03:54 1 me again and for what? Do you know how much and what you  
11:03:57 2 and your addiction has done to us all? When you humbly  
11:04:02 3 realize how much damage you caused, then I'll know you are  
11:04:05 4 ready to get sober. Blaming me, this is an excuse to avoid  
11:04:10 5 sobriety, if you want us, our love, our support, my help,  
11:04:16 6 than shut up and come home and we can get you there." If we  
11:04:20 7 go to the next page, did he respond within the same minute,  
11:04:25 8 "no blame regarding sobriety." Is that what he said?

11:04:28 9 A. Yes. That's what it looks like.

11:04:31 10 Q. And then you write, "you are the one not sober and  
11:04:34 11 brutally effecting all of us." And then did he write, "I'm  
11:04:38 12 a drunk, an addict." And then if we go to the next page.  
11:04:44 13 Did he say, "don't you want your crack back, Hallie?" And  
11:04:49 14 did you respond "I can't take it anymore." And then did you  
11:04:54 15 say "you want me to relapse?" Do you see that?

11:05:01 16 A. Yes.

11:05:01 17 Q. And then he said "for a long time." Right. Is that  
11:05:05 18 what he said back?

11:05:06 19 A. That's what it looks like, yes.

11:05:10 20 Q. And then if we go to the next page, page 48, did you  
11:05:14 21 respond, "focus on yourself and getting sober, not on me."?

11:05:19 22 A. Yes.

11:05:21 23 Q. Now, that was early November. I have one more --  
11:05:32 24 well, before I do that, I have one message I want to ask you  
11:05:39 25 about that's not in that chart. It should be in your



Hallie Biden - direct

11:05:45 1 binder. This is 18G. Do you see 18G on the side, in the  
11:06:19 2 binder?

11:06:20 3 A. You want me to look?

11:06:21 4 Q. If you could, otherwise I could hand you a copy.

11:06:29 5 A. Yes.

11:06:30 6 Q. All right. And is this another series of text  
11:06:33 7 messages between you and the defendant from October, so a  
11:06:37 8 little bit before, October the 31st, a little bit before the  
11:06:41 9 last message we just looked at?

11:06:44 10 A. Yes.

11:06:47 11 MR. WISE: And I would offer 18G into evidence.

11:06:49 12 MR. LOWELL: We need to approach.

11:11:38 13 (Side-bar discussion:)

11:11:38 14 MR. LOWELL: I'm being, trying to be generous,  
11:11:38 15 that's not reciprocal. The e-mail account, EDH that's up  
11:11:38 16 here is not one that has been previously identified and it  
11:11:38 17 is not part of what I believe was put in in the exhibit in  
11:11:38 18 which the underlying data was presented. So I don't know  
11:11:38 19 what this account is and it hasn't been provided.

11:11:38 20 MR. WISE: It has been provided in discovery.

11:11:38 21 MR. LOWELL: It may every --

11:11:38 22 MR. WISE: This is part of the exhibits that we  
11:11:38 23 disclosed some time ago and they didn't raise any questions  
11:11:38 24 about it or ask us to show where it is, but this was  
11:11:38 25 provided in discovery. And it has the page number from the

Hallie Biden - direct

11:11:38 1 discovery at the bottom.

11:11:38 2 MR. LOWELL: But the agent didn't authenticate  
11:11:38 3 this account, what she wrote, what she talked about.

11:11:38 4 MR. WISE: She can. She just said this is a  
11:11:38 5 text exchanged she had with him, she's already authenticated  
11:11:38 6 it.

11:11:38 7 MR. LOWELL: Okay. So she'll be able to  
11:11:39 8 identify this account and say this is something that she  
11:11:39 9 received from him in this account?

11:11:39 10 MR. WISE: So this iCloud account was already on  
11:11:39 11 the summary chart but she just said this was a text exchange  
11:11:39 12 she had with him. This is what I'm going to ask her about,  
11:11:39 13 she text him I just went into the library and sitting next  
11:11:39 14 to Hunter, that's her son, is your brown leather pouch with  
11:11:39 15 a stem in it laying on the chair next to him. That's the  
11:11:39 16 one I'm going to ask her about.

11:11:39 17 MR. LOWELL: How does she know this is Hunter  
11:11:39 18 operating this account?

11:11:39 19 MR. WISE: Well, first of all, the account is  
11:11:39 20 already in evidence, it is on the summary chart but she just  
11:11:39 21 testified the texts she had with him including this account  
11:11:39 22 and this is another one.

11:11:39 23 THE COURT: Just so I understand, is this the  
11:11:39 24 same brown pouch?

11:11:39 25 MR. WISE: A different one, he had more than

Hallie Biden - direct

11:11:39 1 one. Ms. Kestan testified to that as well.

11:11:39 2 MR. LOWELL: All I can say is that the iCloud  
11:11:39 3 extraction that the agent offered is not this one. It's not  
11:11:39 4 this one. So -- look, what I'm trying to do is, this is not  
11:11:39 5 quite a goose and gander, but if they are going to say I'm  
11:11:39 6 supposed to be looking at data to find this text to prove  
11:11:39 7 that it's okay, not being able to do this, or she can say it  
11:11:39 8 I can ask her the same question did you send a text, and she  
11:11:39 9 can authenticate it and did it, that's fine, but they can't  
11:11:39 10 say I need to find where it is ahead of time when they  
11:11:39 11 haven't shown me.

11:11:39 12 MR. WISE: This has already been authenticated  
11:11:39 13 this is part of the authentication motion in limine we filed  
11:11:39 14 with this account, it's already been authenticated, the  
11:11:39 15 problem with summary chart we couldn't tell what was on the  
11:11:39 16 chart was accurate, this isn't a typed up summary, this is  
11:11:39 17 the raw messages.

11:11:39 18 THE COURT: This is what I actually asked you to  
11:11:39 19 use instead of the summary chart, is the raw messages.

11:11:39 20 MR. LOWELL: Right.

11:11:39 21 THE COURT: And you're saying this document with  
11:11:39 22 the raw messages written like this was produced in  
11:11:39 23 discovery?

11:11:39 24 MR. WISE: Yes.

11:11:39 25 THE COURT: Under this production number 1605?

Hallie Biden - direct

11:11:39 1 MR. WISE: Yes.

11:11:39 2 MR. LOWELL: Authentication was not the issue  
11:11:39 3 before, they agreed that what we were seeking was authentic,  
11:11:39 4 they said they couldn't find it and, therefore, they  
11:11:39 5 couldn't check its accuracy.

11:11:39 6 THE COURT: In the summary document?

11:11:39 7 MR. LOWELL: Right.

11:11:39 8 MR. WISE: Because we had to compare the raw to  
11:11:39 9 the summary document, we couldn't find the raw, this is the  
11:11:39 10 raw, it's authenticating because the 902.11 search that was  
11:11:39 11 parts of that motion in limine for this account, this  
11:11:39 12 account was covered by that.

11:11:39 13 MR. LOWELL: I understand that both of us have  
11:11:39 14 gotten stipulations of the authenticity of the material but  
11:11:40 15 that wasn't your objection before, your objection before is  
11:11:40 16 notwithstanding that it's authentic, you couldn't find it in  
11:11:40 17 the extraction report. The account did not identify this  
11:11:40 18 one as being in the extraction report so I want it on the  
11:11:40 19 record that that did not happen. If you're asking her if  
11:11:40 20 she can look at this text and indicate that it's  
11:11:40 21 something that she remembers and that it's something she  
11:11:40 22 said --

11:11:40 23 THE COURT: How about if I let them take their  
11:11:40 24 morning break. Okay.

11:11:40 25 Ladies and gentlemen how about you take your

Hallie Biden - direct

11:11:40 1 morning break, fifteen minutes and then we'll come back.

11:11:43 2 (Jury exiting the courtroom at 11:11 a.m.)

11:11:59 3 THE COURT: Okay. Everyone can be seated.

11:12:05 4 So --

11:12:07 5 MR. LOWELL: Your Honor.

11:12:09 6 THE COURT: I'm sorry, yes, actually, you should  
11:12:12 7 go out in the hall since we're going to talk about this.

11:12:16 8 Your breaks are usually about 10 or 15 minutes.

11:12:20 9 THE WITNESS: Okay.

11:12:21 10 THE COURT: Thank you. Hold on. Let me just  
11:12:47 11 look at the testimony that came up beforehand. By the way,  
11:12:50 12 Mr. Wise, I can do it or you can do it, but ask the witness  
11:12:53 13 to lean into the microphone, some of the jurors are having a  
11:12:57 14 hard time hearing her.

11:12:59 15 MR. WISE: Sure.

11:12:59 16 THE COURT: Okay. Let me just look at this  
11:13:01 17 question. So she said this is a series of text messages  
11:13:12 18 between her and the defendant from October. A little bit  
11:13:17 19 before October, 31st, a little bit before the November  
11:13:20 20 messages that had just been on the screen.

11:13:24 21 MR. WISE: Right, our paralegal handed me the  
11:13:28 22 extraction report that was produced in discovery where this  
11:13:32 23 message appears on page --

11:13:36 24 THE COURT: 1605.

11:13:38 25 MR. WISE: 1605, this report is what was

Hallie Biden - direct

11:13:41 1 produced to the defense and it's self authenticating.

11:13:46 2 THE COURT: You're complaint about them was he  
11:13:47 3 didn't have the equivalent?

11:13:49 4 MR. HINES: We had a chart that purported to be  
11:13:52 5 typed up messages and we couldn't compare to see if they  
11:13:56 6 were accurate, and for instance I looked at one that I did  
11:13:59 7 recognize and it wasn't accurate. It's not that they  
11:14:02 8 deliberately mistyped it, but that's the whole point why we  
11:14:06 9 give them to each other. That's frankly why in our summary  
11:14:09 10 chart we used the raw pictures to kind of cut down on,  
11:14:12 11 somebody leaves out a word or leaves out a not or whatever,  
11:14:16 12 that was my issue with the summary chart.

11:14:18 13 I just need to be able to know that something  
11:14:21 14 they're putting in evidence in place of the underlying  
11:14:24 15 evidence is accurate. That's the fairness we're looking  
11:14:29 16 for.

11:14:29 17 But this is a series of exchanges that already  
11:14:32 18 has been authenticated between her and the defendant. And  
11:14:38 19 they had this -- they've had the report, they have had the  
11:14:40 20 exhibit, they raised no objection, I'm going to ask about  
11:14:43 21 the one I pointed to at side-bar and that's my question.

11:14:49 22 THE COURT: Mr. Lowell?

11:14:50 23 MR. LOWELL: Before the issue was not phrased as  
11:14:54 24 authentication. The government doesn't contest that our  
11:14:58 25 texts, Mr. Wise said there is one that he recognized had a

Hallie Biden - direct

11:15:03 1 mistake in it, I don't know if it did or not, we have the  
11:15:05 2 original text.

11:15:06 3 THE COURT: We can deal with mistakes.

11:15:08 4 MR. LOWELL: It's not an issue, before it wasn't  
11:15:10 5 an issue of authentication, it was an issue of whether or  
11:15:13 6 not I had provided, we had provided in a way that they can  
11:15:16 7 verify. And they indicated they hadn't. This is provided  
11:15:21 8 in discovery is what Mr. Wise just said, it's the same way  
11:15:25 9 that we got what we got and they sent it to us. So now it's  
11:15:29 10 okay if it's just provided in discovery, it's up to us to go  
11:15:33 11 find it. When we were given what they gave us and they're  
11:15:35 12 saying they can't find it, that's not okay.

11:15:38 13 What I'm suggesting is, that they are now saying  
11:15:41 14 something that should allow us to do what we did but we're  
11:15:45 15 doing it your way when we get there, individual texts one by  
11:15:48 16 one. I'm pointing out that the argument they're making  
11:15:52 17 contradiction about what they said that we did. I'm  
11:15:56 18 pointing out that the account said we are there too  
11:15:58 19 authenticate their account and this is how we got it. In  
11:16:01 20 her extraction testimony this wasn't there.

11:16:03 21 I can work out with Mr. Wise. At the end of the  
11:16:06 22 day, this text is not the end of the day and if she can  
11:16:10 23 identify it and say she received it, that's fine I'll work  
11:16:13 24 it out with him, but I'm just pointing out that they are  
11:16:16 25 making an argument to support what they want to do that's

Hallie Biden - direct

11:16:20 1 different from what they're trying to object to what we are  
11:16:23 2 asking to do, that's what I'll work out with him.

11:16:25 3 MR. WISE: That's just not true. We gave them  
11:16:28 4 the report, it has page numbers on it, that's all we asked  
11:16:31 5 for from them and they would not do it.

11:16:34 6 MR. LOWELL: It's not that we would not do it,  
11:16:35 7 Your Honor, we are doing our best, understanding if we told  
11:16:38 8 him -- I don't want to belabor that point again. We  
11:16:42 9 discussed that. I apologize.

11:16:44 10 I will explain to Mr. Wise at the break what we  
11:16:48 11 can do about this one, and we do have now what we said we  
11:16:51 12 can, I might need to check at the break, it might be fifteen  
11:16:55 13 in order to get the individual text to ask her about. Okay.

11:16:58 14 THE COURT: Okay. Just to be clear on the  
11:16:59 15 summary chart, part of the problem was that you had the  
11:17:02 16 clearly hearsay other texts on there.

11:17:05 17 MR. LOWELL: And we understood that and I am  
11:17:07 18 correcting that as well.

11:17:08 19 THE COURT: Okay. All right. We'll take  
11:17:12 20 fifteen minutes and come back around 11:30.

11:17:15 21 MR. WISE: Thank you, Your Honor.

11:18:26 22 COURTROOM DEPUTY: All rise.

11:18:29 23 (A brief recess was taken.)

11:35:58 24 COURTROOM DEPUTY: All rise.

11:37:52 25 (Jury entering the courtroom at 11:37 a.m.)



Hallie Biden - direct

11:38:15 1 THE COURT: All right, everyone. Welcome back.  
11:38:21 2 Everyone, please be seated.

11:38:26 3 Mr. Wise.

11:38:35 4 MR. WISE: Thank you, Your Honor.

11:38:36 5 BY MR. WISE:

11:38:37 6 Q. When we broke, Ms. Biden, I had asked you if the text  
11:38:42 7 exchange in government Exhibit 18G was one you had with the  
11:38:45 8 defendant. Do you remember me asking you that?

11:38:49 9 A. This right here?

11:38:51 10 Q. Yes.

11:38:51 11 A. Yes.

11:38:52 12 Q. I think you testified that it was?

11:38:53 13 A. Yes.

11:38:55 14 MR. WISE: I move for the admission now of 18G  
11:38:57 15 in evidence.

11:38:59 16 MR. LOWELL: With no objection.

11:39:02 17 THE COURT: Thank you. It's admitted.

11:39:05 18 ( Exhibit No. 18G was admitted into evidence.)

11:39:06 19 BY MR. WISE:

11:39:08 20 Q. Ms. Vo, if you could enlarge the third bubble up from  
11:39:13 21 the bottom, and in this message to the defendant, this is  
11:39:19 22 from October 31st, you text, or write "I just went into  
11:39:24 23 library and sitting next to Hunter was your brown leather  
11:39:28 24 pouch with a stem in it laying in the chair next to him."

11:39:33 25 A. Yes.

Hallie Biden - direct

11:39:33 1 Q. Did you have a room in your house at the time that  
11:39:35 2 was referred to as the library?

11:39:37 3 A. Yes.

11:39:37 4 Q. Is that Hunter, is that the defendant or is that  
11:39:39 5 someone else?

11:39:40 6 A. That's my son.

11:39:41 7 Q. And you write, "was your brown leather pouch with a  
11:39:46 8 stem in it." What does a stem refer to?

11:39:48 9 A. A crack pipe.

11:39:50 10 Q. So you obviously testified that the government  
11:39:54 11 Exhibit 4, was the brown leather pouch that you had found in  
11:39:57 12 the defendant's truck on the 23rd that you put the gun in,  
11:40:02 13 right?

11:40:02 14 A. Yes.

11:40:04 15 Q. Now at the end of October, is this another brown  
11:40:07 16 leather pouch that you had found in your home?

11:40:09 17 A. Yes.

11:40:09 18 Q. And that you're asking the defendant about?

11:40:13 19 A. Yes.

11:40:13 20 Q. That apparently had drug paraphernalia in it,  
11:40:16 21 correct?

11:40:18 22 A. Correct.

11:40:20 23 Q. Do you remember him having multiple leather pouches  
11:40:25 24 over a period of time?

11:40:27 25 A. Yes.

Hallie Biden - cross

11:40:27 1 Q. And then if we could go back to 18, I think there was  
11:40:33 2 one last message I was going to ask you about, and that's at  
11:40:41 3 page, Ms. Vo, 61. And this is from January of 28, 2019. If  
11:40:56 4 you could enlarge that message, Ms. Vo, at the bottom, it's  
11:41:00 5 partially redacted. This is a message from the defendant to  
11:41:02 6 you and it reads "that's a line brighter than throwing my  
11:41:07 7 gun in a full trash can in a busy grocery store and then  
11:41:10 8 some kid blows his sisters head off and you go to prison for  
11:41:15 9 the rest of your life." Do you see that?

11:41:17 10 A. I do.

11:41:17 11 Q. Is that a reference to what happened on October 23rd,  
11:41:21 12 that is the throwing gun in a trash can?

11:41:24 13 A. Yes.

11:41:34 14 MR. WISE: Your Honor, I have nothing further.

11:41:35 15 THE COURT: All right. Thank you.

11:41:38 16 Cross-exam.

11:41:40 17 MR. LOWELL: Thank you, Your Honor.

11:41:58 18 Your Honor, may I approach?

11:42:01 19 THE COURT: You may.

11:42:02 20 CROSS-EXAMINATION

11:42:03 21 BY MR. LOWELL:

11:42:13 22 Q. Still good morning.

11:42:13 23 Good morning, Ms. Biden.

11:42:15 24 A. Good morning.

11:42:16 25 Q. I'm Abbe Lowell, one of Hunter's lawyers. We never

Hallie Biden - cross

11:42:20 1 met.

11:42:20 2 A. We never met.

11:42:22 3 Q. We have never talked to each other. I'm sorry that  
11:42:27 4 you need to be here.

11:42:29 5 I want to go backwards a bit. And you were  
11:42:33 6 explaining to the jury, various times in the life of you and  
11:42:39 7 Hunter in which drugs were involved. And you talked about  
11:42:43 8 his use going backwards from the time that I think you and  
11:42:48 9 he started dating, I'm using the word dating, becoming  
11:42:53 10 involved at the end of '15, right?

11:42:55 11 A. Yes.

11:42:55 12 Q. And then you described his various uses and that was  
11:43:00 13 in 2016 as well?

11:43:03 14 A. Yes.

11:43:04 15 Q. And then that carried into 2017?

11:43:07 16 A. Yes.

11:43:08 17 Q. But there were times when neither he nor you were  
11:43:13 18 using drugs, right? There were various times?

11:43:17 19 A. Yes.

11:43:17 20 Q. And those could last for some period, correct?

11:43:20 21 A. Yes.

11:43:20 22 Q. And then in the beginning of 2018, I think you said  
11:43:26 23 there came a point where you visited him in LA, but in the  
11:43:30 24 first part of 2018, he wasn't living with you?

11:43:35 25 A. Like January, February --

Hallie Biden - cross

11:43:38 1 Q. No, I'm sorry, living or visiting, sometimes staying  
11:43:41 2 with you in January?

11:43:43 3 A. In the month of January.

11:43:44 4 Q. Of 18?

11:43:45 5 A. I don't recall.

11:43:46 6 Q. But you do know later in 2018, in the spring, he then  
11:43:50 7 moved to -- took a trip to Los Angeles or California?

11:43:54 8 A. Yes.

11:43:55 9 Q. And at some point you visited him there?

11:43:58 10 A. Yes.

11:44:02 11 Q. I'll come back to 2018. In the period of time I  
11:44:07 12 think that you had testified prior to our break, I think you  
11:44:11 13 said there were instances, or many instances where he would  
11:44:15 14 not be truthful with himself about what he was using and how  
11:44:19 15 bad his problem was?

11:44:21 16 A. Yes.

11:44:21 17 Q. And that would be both as to alcohol and when he  
11:44:26 18 started to use cocaine, crack cocaine?

11:44:28 19 A. Yes.

11:44:28 20 Q. And he would deny that, right?

11:44:30 21 A. Yes.

11:44:30 22 Q. Deny it to you?

11:44:32 23 A. Sometimes, yes.

11:44:33 24 Q. And deny it to himself?

11:44:35 25 A. Yes.

Hallie Biden - cross

11:44:36 1 MR. WISE: Your Honor, I object, she can't say  
11:44:40 2 what he's doing to himself. I would object.

11:44:43 3 BY MR. LOWELL:

11:44:43 4 Q. When he would speak out loud and say he would deny  
11:44:47 5 it, he's the one who is speaking, correct?

11:44:50 6 A. Yes.

11:44:52 7 THE COURT: So we'll strike her speculation as  
11:44:56 8 to what he was -- believed in his own mind.

11:45:02 9 BY MR. LOWELL:

11:45:02 10 Q. And I think in the events that you said in terms of  
11:45:05 11 your back and forth with him, there came a point that you  
11:45:09 12 also started using drugs?

11:45:11 13 A. Yes.

11:45:12 14 Q. And in that period of time, there were times where  
11:45:16 15 both he and you were working together towards sobriety and  
11:45:23 16 recovery and rehabilitation; correct?

11:45:25 17 A. Correct.

11:45:25 18 Q. And in fact, sometimes you did that together?

11:45:28 19 A. Yes.

11:45:28 20 Q. And in those occasions, he was also urging you to try  
11:45:33 21 to become sober?

11:45:36 22 A. Yes.

11:45:36 23 Q. And you to him?

11:45:38 24 A. Yes.

11:45:39 25 Q. And on those occasions in which you were doing this,

Hallie Biden - cross

11:45:42 1 either alone or apart, he was paying for all that, wasn't  
11:45:47 2 he?

11:45:47 3 A. For his or mine?

11:45:49 4 Q. Sometimes yours and always his.

11:45:53 5 A. Uh --

11:45:54 6 Q. He paid for periods of time where you, for example --

11:45:57 7 A. Maybe -- maybe some things he paid for of mine, yeah.

11:46:02 8 Q. Sitting here today, I notice this morning that  
11:46:05 9 sometimes you said maybe, sometimes you said you guess. I  
11:46:08 10 have to assume that the events of October 2018, were fairly  
11:46:14 11 upsetting?

11:46:15 12 A. Yes.

11:46:16 13 Q. And being here is not a picnic, either?

11:46:18 14 A. Yes.

11:46:19 15 Q. So in general, speaking about putting together the  
11:46:23 16 sequence of time, is that a difficult thing for you to do to  
11:46:28 17 remember blow by blow? I mean, I saw that they played a  
11:46:32 18 video, and I think you said in one of them, I think that's  
11:46:35 19 what I did, I'm not sure.

11:46:37 20 A. Yes.

11:46:37 21 Q. So reconstructing this is not easy?

11:46:40 22 A. Right.

11:46:45 23 Q. In the periods of time that you spoke with  
11:46:52 24 prosecutors and investigators and recounted what you were  
11:46:56 25 doing, whatever it was, whether it involved your use of

Hallie Biden - cross

11:47:01 1 drugs or the events of October 22nd, you did tell them about  
11:47:06 2 all that?

11:47:06 3 A. Yes.

11:47:06 4 Q. And you and they have an agreement that nothing that  
11:47:10 5 you say to them can be used against you?

11:47:12 6 A. Correct.

11:47:14 7 Q. I want to turn to the beginning of October of 2018.  
11:47:20 8 And see if we can -- will you help me construct the sequence  
11:47:25 9 of events?

11:47:27 10 A. Yes.

11:47:27 11 Q. You talked about what happened later in October. I  
11:47:31 12 would like to start backwards a bit.

11:47:33 13 Hunter came back from Los Angeles on or about  
11:47:38 14 October 6th of 2018, do you recall that?

11:47:40 15 A. I believe so, I don't recall the dates.

11:47:42 16 Q. I'm sorry, to ask you to do this, would you speak a  
11:47:45 17 little bit into the microphone?

11:47:47 18 A. Sure.

11:47:47 19 Q. So it was around then, do you know that that's when  
11:47:50 20 it was?

11:47:51 21 A. I don't know the date, but if that's what it said,  
11:47:56 22 then...

11:47:59 23 MR. LOWELL: May I approach to point out  
11:48:00 24 something to the witness?

11:48:02 25 THE COURT: You may.



Hallie Biden - cross

11:48:03 1 MR. LOWELL: Thank you, judge.

11:48:30 2 MR. WISE: Your Honor, I don't know what's going  
11:48:32 3 on.

11:48:32 4 MR. LOWELL: I gave him the same thing as you  
11:48:34 5 for the refreshing and other things.

11:48:36 6 MR. WISE: All she said is she doesn't remember.

11:48:38 7 MR. LOWELL: I'm asking to request if something  
11:48:41 8 refreshes her recollection.

11:48:43 9 THE COURT: As to when he came back to the East  
11:48:47 10 Coast?

11:48:47 11 MR. LOWELL: Yes.

11:48:47 12 THE COURT: You can ask her to look at it, but  
11:48:49 13 don't --

11:48:50 14 MR. LOWELL: Yeah, I'll approach this a  
11:48:52 15 different way.

11:48:52 16 BY MR. LOWELL:

11:48:53 17 Q. Do you recall in the beginning of October, that  
11:48:55 18 Hunter came back to be with you for something that you were  
11:49:01 19 doing in the beginning of October, having to do with your  
11:49:05 20 sobriety?

11:49:07 21 A. I don't recall exactly.

11:49:10 22 Q. Okay. In the beginning of October, around the sixth,  
11:49:14 23 were you familiar with a place called Caron, C-A-R-O-N?

11:49:19 24 A. Yes.

11:49:19 25 Q. What is Caron?

Hallie Biden - cross

11:49:21 1 A. Caron is a rehab that I went to.

11:49:23 2 Q. Do you recall a specific incident in which in that  
11:49:27 3 period of time he came back so that he could attend one of  
11:49:31 4 those sessions with you on October 6th?

11:49:34 5 A. I think I know what you're referring to, but it's all  
11:49:39 6 kind of vague.

11:49:41 7 Q. Okay. So generally speaking, you have a memory in  
11:49:43 8 the beginning of October of Hunter coming back from Los  
11:49:47 9 Angeles, that's true, right?

11:49:48 10 A. Yes.

11:49:48 11 Q. And I'm asking you whether, when he did that on the  
11:49:51 12 beginning, do you recall in that same period, whether it's  
11:49:54 13 the 5th or 6th or 4th, that he attended with you one of  
11:49:59 14 those check-ins at Caron?

11:50:03 15 A. Yes.

11:50:04 16 Q. And that was right after he came back in that period?

11:50:08 17 A. Okay. Yes.

11:50:10 18 Q. And where is that facility?

11:50:13 19 A. Like an hour-and-a-half from Wilmington in  
11:50:16 20 Pennsylvania.

11:50:16 21 Q. It's in Pennsylvania. And do you know that day  
11:50:20 22 whether he came back on that day he flew into Philadelphia  
11:50:26 23 so he could join you?

11:50:28 24 A. I do not recall.

11:50:29 25 Q. Do you know where he flew into?

Hallie Biden - cross

11:50:31 1 A. I do not.

11:50:31 2 Q. You had said and described incidents, occasions is a  
11:50:36 3 better word, where you would go into his car or you would be  
11:50:40 4 in his car, maybe you were traveling with his car and I  
11:50:44 5 think you said that there were times when you saw remnants  
11:50:47 6 and paraphernalia?

11:50:48 7 A. Yes.

11:50:48 8 Q. Now, that would be as early as when you and he were  
11:50:53 9 starting to become involved at the end of 2015 into 2016 and  
11:50:59 10 into '17, correct?

11:51:01 11 A. Correct.

11:51:01 12 Q. I'm not asking you, but I imagine given what you said  
11:51:04 13 about putting all this together, can you be sure at any of  
11:51:08 14 those times when your discoveries occurred at any time in  
11:51:11 15 2016 or just generally?

11:51:13 16 A. In 2016?

11:51:14 17 Q. Like, for example, 2016?

11:51:17 18 A. No.

11:51:18 19 Q. Yes, sorry.

11:51:19 20 A. Not if it wasn't a significant day or event.

11:51:22 21 Q. And when you said you would go into the car or you  
11:51:26 22 would see in the car, and you would find those things, if I  
11:51:29 23 asked you, for example, to help me construct when in 2016 or  
11:51:34 24 '17 or even in the beginning of 2018 before he went to Los  
11:51:39 25 Angeles, could you do that?

Hallie Biden - cross

11:51:41 1 A. No.

11:51:49 2 Q. And then after he came back and you have this memory  
11:51:52 3 that he attended with you a session that you were at Caron,  
11:51:57 4 on that day when you were at Caron, you didn't see him using  
11:52:01 5 drugs, did you?

11:52:02 6 A. No.

11:52:02 7 Q. In fact, from the time he came back to the time of  
11:52:05 8 the incident with you finding the gun, you didn't use any  
11:52:09 9 drugs in that period of time, right?

11:52:11 10 A. I did not, no.

11:52:12 11 Q. And did you see him?

11:52:13 12 A. I did not see him. I didn't see him for --

11:52:17 13 Q. I understand you're not with him every time, correct,  
11:52:19 14 is that what you were saying?

11:52:20 15 A. Yes.

11:52:20 16 Q. But there were times where you did?

11:52:23 17 A. Right.

11:52:23 18 Q. And you can see between the time he came back and  
11:52:26 19 came to see you at Caron, and then later when you were on  
11:52:29 20 the 22nd, for example, and in that period of time, you never  
11:52:34 21 saw him using drugs?

11:52:35 22 A. Correct.

11:52:35 23 Q. You had seen him using drugs when he was at your  
11:52:39 24 house before?

11:52:39 25 A. Correct.

Hallie Biden - cross

11:52:40 1 Q. He had been at your house in that window of time, but  
11:52:42 2 you didn't see him using drugs then?

11:52:44 3 MR. WISE: I'm going to object, I don't know  
11:52:46 4 what window of time we're talking about.

11:52:48 5 MR. LOWELL: October 6th through October 22nd.

11:52:50 6 THE WITNESS: I honestly don't know if he was at  
11:52:52 7 my house between that time.

11:52:54 8 BY MR. LOWELL:

11:52:54 9 Q. Okay. So then you would not have seen him if he  
11:52:57 10 wasn't there?

11:52:57 11 A. Correct.

11:52:57 12 Q. We'll come back to whether he was there with some  
11:53:00 13 documents, okay?

11:53:01 14 A. Okay.

11:53:03 15 Q. All right. So now on the day that you said you went  
11:53:06 16 into his truck, we'll come back to later in terms of the  
11:53:09 17 remnants, I just wanted to clarify that in his return, there  
11:53:12 18 was never an occasion where you found, for example, in your  
11:53:16 19 house or even in his car a rock, a marble, a ping pong ball  
11:53:21 20 size piece of crack, you used the words remnants?

11:53:25 21 A. Correct.

11:53:25 22 Q. I take it if they were where you say they were, you  
11:53:30 23 would have no idea when they were, I mean when they were put  
11:53:32 24 there --

11:53:32 25 A. Correct.

Hallie Biden - cross

11:53:34 1 Q. Sorry?

11:53:34 2 A. Correct.

11:53:34 3 Q. It could have been that day, it could have been a  
11:53:37 4 week before, it could have been a month before, it could  
11:53:40 5 have still been there, but you don't know?

11:53:42 6 A. Correct.

11:53:48 7 Q. You, I think, described your relationship over  
11:53:51 8 whatever year, but I want to turn particularly to 2018. And  
11:53:55 9 in 2018 after he's back in that period of time, I think you  
11:54:01 10 used generally the phrase "on and off." Is that right?

11:54:05 11 A. Yes.

11:54:05 12 Q. Sometimes it was good and sometimes it was not as  
11:54:08 13 good?

11:54:08 14 A. Correct.

11:54:10 15 Q. And sometimes it was intense, would that be a fair  
11:54:14 16 statement?

11:54:15 17 A. Yes.

11:54:15 18 Q. And it was always complicated?

11:54:17 19 A. Yes.

11:54:20 20 Q. Is it a generally true statement that throughout your  
11:54:23 21 relationship with him, he would say things to you or tell  
11:54:26 22 you things or write you things that you knew were not true?

11:54:29 23 A. Yes.

11:54:31 24 Q. And in some occasions did he not want you to know  
11:54:37 25 where he was and what he was doing?

Hallie Biden - cross

11:54:39 1 A. Yes.

11:54:39 2 MR. WISE: I'm going to object, I don't think  
11:54:42 3 she can testify to what he wanted.

11:54:44 4 BY MR. LOWELL:

11:54:44 5 Q. Sorry. There were times that you --

11:54:46 6 THE COURT: So hold on.

11:54:48 7 MR. LOWELL: I'll withdraw the question.

11:54:49 8 THE COURT: And that's sustained and stricken  
11:54:52 9 because she did answer it.

11:54:53 10 BY MR. LOWELL:

11:54:54 11 Q. There were periods of time that he did not tell you  
11:54:56 12 where he was?

11:54:57 13 A. Correct.

11:54:58 14 Q. There were periods of time where he told you where he  
11:55:00 15 was, and then you later found out yourself that that was not  
11:55:04 16 true?

11:55:04 17 A. Correct.

11:55:13 18 Q. Before the 22nd, I think he was back, between that  
11:55:20 19 time you were saying you're not sure or you are sure that  
11:55:25 20 you saw him between the 6th and the 22nd?

11:55:28 21 A. I'm not sure if there was the text messages then.

11:55:35 22 MR. LOWELL: One moment.

11:55:41 23 BY MR. LOWELL:

11:55:41 24 Q. If you'll look -- I'm sorry, if there was a text  
11:55:46 25 exchange between you and Mr. Biden on a date, would that

Hallie Biden - cross

11:55:53 1 help refresh your recollection of whether or not he was with  
11:55:56 2 you?

11:55:57 3 A. Yes.

11:55:58 4 Q. With that in mind, let me make sure I'm at the right  
11:56:03 5 page, please. If you'll look at the first entry on the  
11:56:17 6 page, just look at it to yourself. Tell me when you're done  
11:56:24 7 looking up.

11:56:24 8 A. You mean read it?

11:56:26 9 Q. No, not out loud, just look at it to yourself. If  
11:56:31 10 you look at that document and I'm looking at the date of it  
11:56:35 11 being October the 11th to start off with?

11:56:37 12 MR. WISE: Your Honor, it shouldn't be read into  
11:56:39 13 the record.

11:56:40 14 MR. LOWELL: I'm not reading it, I'm just asking  
11:56:40 15 her to read.

11:56:46 16 All right there is a row number. Row one does  
11:56:49 17 that work for you. Reading that to yourself, does that  
11:56:52 18 refresh your recollection that you were trying to see him  
11:56:55 19 during that period of time.

11:56:56 20 MR. WISE: I'm objecting, he asked whether he  
11:56:59 21 stayed with her, not whether she was trying to see him.

11:57:02 22 BY MR. LOWELL:

11:57:03 23 Q. Let me change that, does that refresh your  
11:57:06 24 recollection as to whether or not, you and he saw each other  
11:57:10 25 before the 22nd?



Hallie Biden - cross

11:57:20 1 A. I believe that means he wasn't.

11:57:24 2 Q. Okay.

11:57:24 3 THE COURT: The question is does it make you  
11:57:27 4 remember, refreshing your recollection is look at it and  
11:57:30 5 think, gosh, I remember.

11:57:31 6 THE WITNESS: Yes. No, I think it's confusing  
11:57:34 7 so I'm not sure, it confuses it further.

11:57:36 8 BY MR. LOWELL:

11:57:37 9 Q. Let me change the question then. In this period of  
11:57:40 10 time, were you asking to see him?

11:57:42 11 A. Yes.

11:57:42 12 Q. And you're sitting here today not aware of whether  
11:57:46 13 that happened or not?

11:57:46 14 A. On that day, correct.

11:57:48 15 Q. Until a later time in October where you testified?

11:57:50 16 A. Yes.

11:57:51 17 Q. And were there times where you would call him or text  
11:57:55 18 him and ask him in that period of time where are you, will  
11:57:58 19 you come home?

11:57:59 20 A. Yes.

11:57:59 21 Q. And he didn't respond?

11:58:02 22 A. Correct.

11:58:02 23 Q. And then he did respond after -- on one of the  
11:58:09 24 occasions, you asked him, I think, maybe the government  
11:58:12 25 heard you, you said you called him repeatedly and

Hallie Biden - cross

11:58:15 1 repeatedly, do you remember that you did that?

11:58:17 2 A. Yes.

11:58:18 3 Q. And if you will put up, Mr. Radic, the government  
11:58:21 4 Exhibit 18, Row 119. I'm going to bring your attention to  
11:58:32 5 that date of October 13th, which is a week after he got --  
11:58:37 6 and Row 119.

11:58:40 7 So you see on the above, can we go to 118, you  
11:58:45 8 don't have to blow it up yet. This is that occasion on the  
11:58:48 9 13th, "why won't you answer my calls? Where are you? Are  
11:58:53 10 you with someone?" Correct?

11:58:54 11 A. Correct.

11:58:54 12 Q. When you said someone, were you thinking that he was  
11:58:57 13 with a drug dealer or another woman?

11:59:00 14 A. A woman.

11:59:00 15 Q. And then he wrote, "yes, Bernard who hangs at 7-11 et  
11:59:05 16 cetera" has been read to you, do you see that's his  
11:59:08 17 response?

11:59:08 18 A. Yes.

11:59:08 19 Q. You mentioned that you can't trust what he says when  
11:59:11 20 he writes you because you find out sometimes he's lying,  
11:59:14 21 correct?

11:59:15 22 A. Correct.

11:59:15 23 Q. Do you know whether he was at the 7-11 on Greenhill  
11:59:22 24 Maryland avenue, et cetera?

11:59:22 25 A. I do not.

Hallie Biden - cross

11:59:24 1 Q. And later I think there is government exhibit, the  
11:59:33 2 next day, Row 14. I'm sorry, no, I take that back, it's  
11:59:38 3 Row 125. And there on the date of the 14th, you say, "I  
11:59:46 4 called you 500 times in the past 24 hours. And you no  
11:59:50 5 answer. Practice what you preach." Those were yours to  
11:59:53 6 him, right?

11:59:54 7 A. Correct.

11:59:54 8 Q. And then he writes, a minute, not even a minute,  
12:00:01 9 17 seconds after the last one, "I was sleeping on a car  
12:00:03 10 smoking crack on 4th and Rodney", right?

12:00:06 11 A. Yes.

12:00:06 12 Q. And you have no idea whether he was just saying that  
12:00:09 13 or whether he was actually there?

12:00:10 14 A. Correct.

12:00:30 15 Q. You can take that down.

12:00:33 16 So I would like to get to the time period of  
12:00:36 17 what you testified to as being your discovery of the gun and  
12:00:40 18 then the recovery of it, recovery by you. And this is where  
12:00:45 19 I'm going to ask your help to put together the sequence.  
12:00:50 20 Okay? You said that you found the gun sometime in the  
12:00:53 21 morning of the 23rd of October.

12:00:57 22 A. Yes.

12:00:58 23 Q. The day before on October 22nd, you were not with  
12:01:03 24 Hunter during the day; is that right?

12:01:06 25 A. Not that I recall.

Hallie Biden - cross

12:01:08 1 Q. And during that day, you were reaching out to see  
12:01:11 2 whether you could see him?

12:01:14 3 A. Is that the text messages that you have?

12:01:17 4 Q. It is in a text message that I'll ask you about if  
12:01:20 5 you need to have your memory refreshed about that.

12:01:25 6 If you'll turn to what I gave you and look at  
12:01:30 7 Row 15.

12:01:31 8 A. I'm sorry, under what?

12:01:33 9 Q. And read that to yourself.

12:01:35 10 That same place that I showed you.

12:01:54 11 So if you'll look at -- on what I have just  
12:02:01 12 given you on the 22nd, is it Row 15? Tell me if Row 15 has  
12:02:19 13 a date on it so you can acclimate yourself, is that on the  
12:02:24 14 22nd I'm showing you something?

12:02:25 15 A. On the 22nd.

12:02:26 16 Q. Would you look at that?

12:02:28 17 A. Yes.

12:02:29 18 Q. Looking at it yourself?

12:02:30 19 A. Uh-huh.

12:02:31 20 Q. Were you seeking to see him that day?

12:02:33 21 MR. WISE: I think the question has to be does  
12:02:35 22 it refresh your recollection.

12:02:36 23 BY MR. LOWELL:

12:02:36 24 Q. Does it refresh your recollection as to whether you  
12:02:38 25 were trying to see him that day?

Hallie Biden - cross

12:02:40 1 A. I don't recall that, but that sounds like --

12:02:43 2 Q. It does, you were trying?

12:02:45 3 A. That I was trying yes.

12:02:47 4 MR. WISE: I think she said I don't recall that.

12:02:51 5 By MR. LOWELL:

12:02:51 6 Q. Go slower for me, look down and read that, and when  
12:02:55 7 you're done, look up?

12:02:56 8 THE COURT: And the question was does it refresh  
12:02:58 9 your recollection, which is to start answering yes or no  
12:03:01 10 before we get further, we can take it in steps.

12:03:04 11 THE WITNESS: Vaguely, but not times.

12:03:05 12 BY MR. LOWELL:

12:03:06 13 Q. Not by the exact time?

12:03:07 14 A. Correct.

12:03:08 15 Q. But that day?

12:03:09 16 A. Like that doesn't bring me back to that day.

12:03:12 17 Q. In that period of time, as before texts when I asked  
12:03:16 18 whether or not you were wondering with whom he was, were you  
12:03:19 19 still wondering when whom he was spending time during this  
12:03:23 20 period of time?

12:03:23 21 A. Yes.

12:03:24 22 Q. Did you sometimes write him and ask are you with  
12:03:26 23 somebody, another woman?

12:03:28 24 A. Yes.

12:03:28 25 Q. And in that October 22nd period of time, in the day

Hallie Biden - cross

12:03:34 1 of the 22nd, does looking down at that refresh your  
12:03:38 2 recollection of whether you were with him at that moment?

12:03:42 3 MR. WISE: Objection, she already said it  
12:03:45 4 doesn't.

12:03:45 5 THE WITNESS: I was just asking "are you in New  
12:03:47 6 York?"

12:03:47 7 MR. LOWELL: No, don't answer. I'm sorry.

12:03:48 8 THE COURT: Again. It's not your fault, it's  
12:03:51 9 the way the rules of evidence work, you need to take these  
12:03:55 10 when he's asking you to refresh your recollection, one step  
12:03:58 11 at a time.

12:03:58 12 THE WITNESS: Okay.

12:03:59 13 THE COURT: Okay. So you're looking at it and  
12:04:02 14 basically what's in there doesn't come into evidence unless  
12:04:05 15 it refreshes your recollection, we have to take it a step at  
12:04:10 16 a time.

12:04:10 17 If you start saying what you're reading, it kind  
12:04:14 18 of defeats the purpose. So we start with does it, and oh  
12:04:17 19 gosh, now I remember, it could have been something where  
12:04:20 20 someone said I saw you at the birthday party, you could be  
12:04:24 21 like oh yeah, now I remember the birthday party. You don't  
12:04:28 22 need to know what the rules of evidence are.

12:04:30 23 BY MR. LOWELL:

12:04:31 24 Q. So my question was on the 22nd, do you first and  
12:04:33 25 foremost know whether you were with him?

Hallie Biden - cross

12:04:38 1 A. I am not sure.

12:04:41 2 Q. Okay. And did you on that day send him a text asking  
12:04:44 3 him where he was?

12:04:47 4 A. Yes.

12:04:48 5 Q. You did. And did --

12:04:50 6 A. Now -- are you not now doing what --

12:04:54 7 Q. So far so good?

12:04:55 8 MR. WISE: Well, no.

12:04:59 9 THE COURT: You could be a lawyer.

12:05:01 10 MR. WISE: Your Honor, you know, she asked if  
12:05:04 11 you sent him a text, she looked at the exhibit, which is in  
12:05:07 12 evidence, and said yes I did, that's not refreshing.

12:05:10 13 MR. LOWELL: Now maybe go to side-bar.

12:11:28 14 (Side-bar discussion.)

12:11:28 15 MR. LOWELL: We have provided the government at  
12:11:28 16 the break what they asked for and put into individual texts  
12:11:28 17 and individual sources and individual places to find them.  
12:11:28 18 And then the government said okay, so where we're at is the  
12:11:28 19 hearsay objections and that's where we're at. Now it could  
12:11:28 20 be a text from her that she does or does not remember. If  
12:11:28 21 she does, fine, if she doesn't then it's past recollection  
12:11:28 22 recorded. It's something that she did, it's something that  
12:11:28 23 she said, that's what I asked you before, can you ask  
12:11:28 24 somebody did you do something. Her state of mind as to why  
12:11:28 25 she was going into his car looking for drugs is what she

Hallie Biden - cross

12:11:28 1 said, she told the Delaware State Police she went into the  
12:11:28 2 car because she was looking for evidence of him being with  
12:11:28 3 another woman, I think her state of mind is an issue because  
12:11:28 4 it was impeachment as to why he she went into his car is one  
12:11:28 5 of the reasons.

12:11:28 6 MR. WISE: There is a lot there. He can't ask  
12:11:28 7 us her to read-he can't ask her to use this to say what he  
12:11:28 8 can't introduce. So the question has to be, were you with  
12:11:28 9 him on the 22nd, she said I don't remember, as you tried to  
12:11:28 10 say, does that refresh your memory, if she says yes, then  
12:11:28 11 she says I was with him on the 22nd, not anything about a  
12:11:28 12 text, if she says no, he's got to move on. Whatever she  
12:11:28 13 says to the Delaware State Police he may be able to impeach  
12:11:28 14 by calling somebody from the Delaware State Police but he  
12:11:29 15 can't do with these text messages.

12:11:29 16 THE COURT: It should be clearer to her that  
12:11:29 17 she's not to testify from these text messages, she needs to  
12:11:29 18 close it unless he gets somewhere where he needs to ask her  
12:11:29 19 a question, she can look at it and do the same drill, does  
12:11:29 20 this refresh your memory, fine, if she says no, she move on  
12:11:29 21 to the next question.

12:11:29 22 MR. LOWELL: I'm at the point now I will move  
12:11:29 23 this line now that we have established the first obstacle of  
12:11:29 24 getting this into evidence for the reasons I said.

12:11:29 25 THE COURT: He said it's not hearsay, it's a



Hallie Biden - cross

12:11:29 1 recorded recollection, it's a past or recorded recollection.

12:11:29 2 MR. WISE: I can bring the rule up, this is not  
12:11:29 3 a recorded recollection.

12:11:29 4 MR. LOWELL: But --

12:11:29 5 MR. WISE: A recorded recollection is write down  
12:11:29 6 what you remember. These are contemporaneous text messages.

12:11:29 7 THE COURT: In a matter the ones knew about but  
12:11:29 8 cannot recall well enough to testify fully and accurately,  
12:11:29 9 this is a recorded recollection is a record on a matter the  
12:11:29 10 witness once knew about but now cannot recall well enough to  
12:11:29 11 testify fully and accurately was made or adopted by the  
12:11:29 12 witness when the matter was fresh in the witness's memory,  
12:11:29 13 and accurately refreshes the witness's knowledge. If  
12:11:29 14 admitted the record may be read into evidence but may be  
12:11:29 15 received only if offered by an adverse party.

12:11:29 16 MR. WISE: So it doesn't -- the last part, the  
12:11:29 17 accurately refreshes.

12:11:29 18 THE COURT: Accurately reflects the witness's  
12:11:29 19 knowledge.

12:11:29 20 MR. WISE: So this is not, you know, on this --  
12:11:29 21 for instance, this day I did the following things, this is a  
12:11:29 22 text message that says I'm asking if he's there. It's not  
12:11:29 23 that if she remembers, she's written something down saying I  
12:11:29 24 remember, I asked him if he was there.

12:11:29 25 THE COURT: Well what I am -- so let's say you

Hallie Biden - cross

12:11:29 1 can get it in, you can't then ask her, so that means you  
12:11:29 2 weren't -- because if her recollection is she was looking  
12:11:29 3 for him, then -- and she says no, it doesn't refresh my  
12:11:29 4 recollection and let's say you get the text in, you can't  
12:11:29 5 then say so you -- you knew you weren't with him because  
12:11:29 6 that's not her recollection.

12:11:29 7 MR. LOWELL: No, that's right, that's right.

12:11:29 8 THE COURT: You just want to argue it.

12:11:29 9 MR. LOWELL: At some point I have the ability to  
12:11:29 10 make an argument of whatever is in evidence, but it fits in  
12:11:29 11 the exact definition that you just read into there, if she  
12:11:29 12 identifies it as a text that she wrote at the time,  
12:11:29 13 contemporaneously.

12:11:29 14 THE COURT: So let me see this text, what is the  
12:11:29 15 one we're talking about?

12:11:29 16 MR. WISE: So it's --

12:11:29 17 MR. LOWELL: Which one is it.

12:11:29 18 MR. WISE: I think he said line 15, are you in  
12:11:29 19 New York with Zoe.

12:11:29 20 THE COURT: And you're going to say did you  
12:11:29 21 wonder if he was with someone and then you show her that and  
12:11:30 22 say does that refresh your recollection and let's say she  
12:11:30 23 says no.

12:11:30 24 MR. LOWELL: Then I'll move it into evidence,  
12:11:30 25 I'll read it into the record, I mean, whatever the rules

Hallie Biden - cross

12:11:30 1 say.

12:11:30 2 Sorry, what was that part?

12:11:30 3 THE COURT: A record that is on a matter the  
12:11:30 4 witness once knew, and you're not going to say so you sent  
12:11:30 5 this text -- I mean, what do you do when you get it in  
12:11:30 6 evidence? You just move on?

12:11:30 7 MR. LOWELL: Yeah. Well I move on and say did  
12:11:30 8 you inquire where he was on that day and ask him whether he  
12:11:30 9 was in New York? And then she answers and then we find out.

12:11:30 10 MR. WISE: I mean, you can ask that without  
12:11:30 11 showing her the text. At that point she's just testifying  
12:11:30 12 about stuff she says she doesn't remember based on a text.

12:11:30 13 MR. LOWELL: But based on past recollection  
12:11:30 14 recorded.

12:11:30 15 MR. WISE: All I can do even if you can get it  
12:11:30 16 in, which I don't think you can, you can't say okay now that  
12:11:30 17 you got this text in front of you.

12:11:30 18 THE COURT: You know you did.

12:11:30 19 MR. WISE: Right, let's talk about this.

12:11:30 20 THE COURT: And he's saying he's not going to do  
12:11:30 21 that, he's just going to say in argument she had no idea  
12:11:30 22 where he was.

12:11:30 23 MR. LOWELL: Right. Okay. Thank you, Judge.

12:11:30 24 (End of side-bar.)

12:11:30 25 BY MR. LOWELL:

Hallie Biden - cross

12:11:37 1 Q. On October 22nd is where we were at and I was  
12:11:40 2 asking --

12:11:41 3 THE COURT: Can you hold on one second. Let me  
12:11:43 4 just look at one thing. I apologize. Okay. Go ahead.

12:13:26 5 MR. LOWELL: Thank you, judge.

12:13:27 6 BY MR. LOWELL:

12:13:28 7 Q. Ms. Biden, on the 22nd is where we were place marking  
12:13:31 8 the date, and I was trying to figure out whether on that  
12:13:34 9 day, since you say you're not sure when Mr. Biden and you  
12:13:38 10 saw each other. So do you understand the context?

12:13:41 11 A. Yeah. Uh-huh.

12:13:42 12 Q. On that date in the middle of the afternoon, if  
12:13:45 13 you'll just look at me to begin with, don't read that yet,  
12:13:49 14 please. I'm sorry. Did you inquire where he was?

12:13:52 15 A. Yes.

12:13:52 16 Q. And if you were inquiring where he was, it meant he  
12:13:56 17 wasn't with you?

12:13:57 18 A. Yes.

12:13:57 19 Q. And in the middle of the afternoon, did you make a  
12:14:00 20 specific inquiry if he was in New York?

12:14:02 21 A. Yes.

12:14:03 22 Q. And did you text him that way?

12:14:05 23 A. Yes.

12:14:07 24 Q. And do you remember what you said?

12:14:09 25 A. Can I look --

Hallie Biden - cross

12:14:10 1 Q. Do you remember as you're looking at me what you  
12:14:13 2 said?

12:14:13 3 A. No.

12:14:14 4 Q. At the time, though, did you send a text, you do know  
12:14:18 5 that?

12:14:18 6 A. Yes.

12:14:19 7 Q. And at the time that reflected what you said at the  
12:14:23 8 time?

12:14:23 9 A. Yes.

12:14:23 10 Q. It is something you would do, you would text him?

12:14:26 11 A. Yes.

12:14:26 12 Q. And on that day you recall having texts with him?

12:14:29 13 A. Yes.

12:14:29 14 Q. Including in the middle of the afternoon?

12:14:31 15 A. Yes.

12:14:31 16 Q. In the middle of the afternoon?

12:14:33 17 MR. LOWELL: Your Honor, pursuant to your bench  
12:14:35 18 conference, I would like to read into the record the exhibit  
12:14:38 19 -- the text we're talking about.

12:14:40 20 THE COURT: Okay.

12:14:42 21 BY MR. LOWELL:

12:14:43 22 Q. Now you can look down and I am going to ask you if I  
12:14:46 23 read this correctly. October 22nd, 2018, at 2:55 in the  
12:14:51 24 afternoon. Did you write him, "are you in NY with Zoe?"

12:14:57 25 A. Yes.

Hallie Biden - cross

12:14:58 1 Q. You did do that?

12:14:59 2 A. From this paper, correct.

12:15:00 3 Q. Yes. You don't have to remember it now because your  
12:15:03 4 text is something that you recognize as a text you sent?

12:15:06 5 A. Yes.

12:15:06 6 Q. And that's what you said, meaning you weren't with  
12:15:09 7 him at that moment?

12:15:10 8 A. Correct.

12:15:11 9 Q. And then later that afternoon, did you inquire where  
12:15:16 10 he was again?

12:15:17 11 A. Yes.

12:15:18 12 Q. And if you look up at me --

12:15:21 13 THE COURT: Just to be clear, are you saying yes  
12:15:23 14 because you remember that or because you're reading  
12:15:25 15 something?

12:15:26 16 MR. LOWELL: Let me take the book away for a  
12:15:29 17 moment. I'm just going to put this over here, don't look at  
12:15:35 18 it until there is a moment. Hopefully that works better.

12:15:35 19 BY MR. LOWELL:

12:15:41 20 Q. Later in the afternoon, did you inquire again where  
12:15:44 21 he was, do you recall?

12:15:47 22 A. Not just from recalling without text messages.

12:15:51 23 Q. Okay. I understand.

12:15:52 24 Now, you can -- sorry. I'll do this better if I  
12:15:59 25 can. Now, I'm just going to ask you to look at that just

Hallie Biden - cross

12:16:04 1 first for the purposes of seeing if it refreshes your  
12:16:06 2 recollection about that. So if you'll look at Row 17.

12:16:14 3 A. Yes.

12:16:15 4 Q. Look down and then read it to yourself.

12:16:18 5 A. Wait a second. Yes.

12:16:22 6 Q. Now look up?

12:16:24 7 A. Wait, 17?

12:16:26 8 Q. Row 17, there are row numbers on the left side?

12:16:28 9 A. Mine goes from 16 to 18.

12:16:31 10 Q. I'm sorry, hold on. No, no, no. Look at Row 17.

12:16:44 11 Not 17, I got that wrong, I'm so sorry. Look first at

12:16:51 12 Row 16. And when you have read it to yourself, look up so  
12:16:55 13 I'll know.

12:16:56 14 Looking at that, does it refresh your  
12:16:58 15 recollection of sending him another text in the afternoon  
12:17:01 16 seeking where he is?

12:17:02 17 A. Yes.

12:17:03 18 Q. And you did that then, and looking up, what were you  
12:17:07 19 asking him at that point?

12:17:10 20 A. Another way of saying I don't know where you are.

12:17:13 21 Q. And that you recall the date, the time would be  
12:17:18 22 4:32 in the afternoon, not that you recall it, but would it  
12:17:20 23 be later than the first one?

12:17:22 24 A. Yes.

12:17:23 25 Q. And then proceeding, did you continue to text him?

Hallie Biden - cross

12:17:28 1 A. Yes.

12:17:30 2 Q. And --

12:17:31 3 A. Can I look?

12:17:32 4 Q. And later being after the time of the first two, so  
12:17:37 5 do you remember it then getting to be later in the afternoon  
12:17:41 6 around 5:30? Do you remember?

12:17:44 7 A. I don't remember that from like --

12:17:47 8 Q. Now, can I --

12:17:48 9 THE COURT: Time marches on.

12:17:52 10 BY MR. LOWELL:

12:17:52 11 Q. Except when I'm asking questions?

12:17:53 12 A. Right. And if I could look at these, this refreshes  
12:17:58 13 -- there is obviously a time stamp of my conversation.

12:18:01 14 Q. If you could look at that and see that was later in  
12:18:04 15 the afternoon around 5:30, would that refresh your  
12:18:06 16 recollection around the time?

12:18:07 17 A. Yes.

12:18:08 18 THE COURT: So again. Refreshing your  
12:18:10 19 recollection is I read it, I don't remember it, but it says  
12:18:13 20 it, so I'll believe it, that's not refreshing your  
12:18:16 21 recollection. Refreshing your recollection is if someone  
12:18:21 22 says remember we met in 2024, or you say no but yes to be  
12:18:25 23 polite, but you don't really, and then they say remember it  
12:18:29 24 was Bob's birthday party and we talked about the pizza that  
12:18:33 25 was great and you say oh my gosh, I remember that, so this



Hallie Biden - cross

12:18:37 1 is a little bit different. This is if you read a message  
12:18:40 2 and you say oh my God, I do remember sending that message,  
12:18:44 3 then it refreshes your recollection. If not, the answer  
12:18:49 4 does it refresh your recollection is no, and then he just  
12:18:52 5 has to go through a few more steps to make sure we have the  
12:18:56 6 evidence.

12:18:56 7 THE WITNESS: It's a process.

12:18:57 8 THE COURT: It's a legal process.

12:18:59 9 THE WITNESS: Okay.

12:18:59 10 BY MR. LOWELL:

12:19:00 11 Q. Let's try that again, okay. All right. So going  
12:19:02 12 back to Row 16, right, look down and see whether it  
12:19:07 13 refreshes your recollection of what time you sent a text to  
12:19:11 14 Hunter and what it said. And if you look up. It does?

12:19:14 15 A. Yes.

12:19:14 16 Q. What time does that refresh your recollection. Don't  
12:19:17 17 look down, just look up at me. What time does it refresh  
12:19:21 18 your recollection that you sent that?

12:19:23 19 A. 4:30ish.

12:19:25 20 Q. And in that, what is it that you recall asking him,  
12:19:28 21 you were asking him-- what was it you recall you saying?

12:19:32 22 A. Again, where are you, or --

12:19:35 23 Q. Or what are you doing?

12:19:37 24 A. What are you doing?

12:19:38 25 Q. And then later in that same day, because we're trying

Hallie Biden - cross

12:19:42 1 to get the time sequence, okay?

12:19:44 2 A. Okay.

12:19:44 3 Q. Later than that, do you recall continuing to have a  
12:19:47 4 text exchange with him?

12:19:49 5 A. Likely.

12:19:50 6 Q. Likely. Well, to start, look down and see if you see  
12:19:54 7 additional text that could refresh your recollection that it  
12:19:57 8 continued to happen?

12:19:58 9 A. Yes.

12:19:58 10 Q. And did you then write to him, or do you recall  
12:20:03 11 having another exchange where you are asking him further  
12:20:08 12 either in words or to the effect where are you and what  
12:20:11 13 you're doing?

12:20:12 14 A. Yes.

12:20:12 15 Q. And looking up, do you know that that was later than  
12:20:15 16 that last one, this one now being at about 5:30?

12:20:19 17 A. Yes.

12:20:19 18 Q. And in that, do you recall telling him that you  
12:20:22 19 thought you knew where he was?

12:20:25 20 A. Yes.

12:20:27 21 Q. And what is it that you recall you said?

12:20:32 22 A. Like, I know where you are.

12:20:35 23 Q. Okay. And where did you think he was when you said  
12:20:39 24 that?

12:20:39 25 A. I don't know.

Hallie Biden - cross

12:20:40 1 Q. But you said to him, "I know where you are"?

12:20:43 2 A. I know, but I don't know if I really knew where he  
12:20:46 3 was.

12:20:46 4 Q. But that's what you wrote, why did you write it that  
12:20:49 5 way?

12:20:49 6 A. I don't recall.

12:20:52 7 Q. Okay. And then into the evening, in terms of where  
12:20:59 8 you were and whether he was there, do you recall continuing  
12:21:04 9 another text in which you are exchanging and sending to him  
12:21:10 10 something reflecting whether you were with him at the time  
12:21:13 11 that evening or not?

12:21:15 12 A. Yes.

12:21:15 13 Q. And was that in the evening?

12:21:18 14 A. Yes.

12:21:18 15 Q. Do you know what, without looking down, do you know  
12:21:22 16 off hand what time in the evening?

12:21:24 17 A. 8ish.

12:21:25 18 Q. Or later?

12:21:26 19 A. Or later.

12:21:27 20 Q. And in that period of time, did you reach out to him  
12:21:29 21 and say come over or words to that effect?

12:21:34 22 A. Yes.

12:21:34 23 Q. Or if you asked -- offered for you to go wherever he  
12:21:38 24 was?

12:21:38 25 A. Right, correct.

Hallie Biden - cross

12:21:39 1 Q. Okay. So at 8:49 or later, eight something as far as  
12:21:44 2 you can remember, you're still not with him?

12:21:46 3 A. Correct.

12:21:47 4 Q. And you're reaching out to him and asking him to  
12:21:50 5 either come or for you to go wherever he is?

12:21:53 6 A. Yes.

12:21:54 7 Q. And then after that, did you text him again and  
12:21:58 8 indicate how he could get there?

12:22:00 9 A. Can I --

12:22:03 10 Q. I'm sorry, I take that back. Sorry, full day, never  
12:22:07 11 mind, I'm in a different day.

12:22:11 12 MR. LOWELL: Judge should I keep going or if I'm  
12:22:13 13 in the next day should we take a lunch break, it's up to  
12:22:16 14 you?

12:22:17 15 THE COURT: Keep going.

12:22:18 16 MR. LOWELL: Okay. Thank you.

12:22:19 17 BY MR. LOWELL:

12:22:20 18 Q. Then you testified that October 22nd, now having gone  
12:22:23 19 through those texts, or at least refreshing on those that  
12:22:28 20 you did, does that help you remember whether at any point on  
12:22:33 21 the evening of the 22nd you ever went to wherever Hunter was  
12:22:38 22 as you were asking him or he ever came to your house?

12:22:41 23 A. I did not see him, no.

12:22:45 24 Q. So we can pretty well establish you didn't see him  
12:22:48 25 that night?

Hallie Biden - cross

12:22:49 1 A. Correct.

12:22:49 2 Q. Now, let's turn to the next day. I get the sequence  
12:23:01 3 the next morning, it was a weekday, I think on the 23rd of  
12:23:05 4 October, yes?

12:23:06 5 A. Yes.

12:23:06 6 Q. And you were, your two children were school aged?

12:23:10 7 A. Yes.

12:23:10 8 Q. One is named Hunter?

12:23:12 9 A. Yes.

12:23:12 10 Q. And the other one's name is Natalie?

12:23:15 11 A. Natalie, yes.

12:23:16 12 Q. And you would normally in your routine get up and get  
12:23:22 13 them ready for school?

12:23:23 14 A. Yes.

12:23:23 15 Q. And you would drive them?

12:23:25 16 A. Correct.

12:23:25 17 Q. And if it was a weekday, even though you don't have a  
12:23:29 18 specific memory, it would be likely that that's what  
12:23:31 19 happened that morning?

12:23:32 20 A. Yes.

12:23:32 21 Q. What time is it that they needed to get to school?

12:23:35 22 A. By 8:00.

12:23:38 23 Q. And then you would leave how early in the morning to  
12:23:41 24 get them there, eight or when?

12:23:43 25 A. It's like a mile away.

Hallie Biden - cross

12:23:45 1 Q. So you did that as far as we can reconstruct in the  
12:23:48 2 morning of that morning?

12:23:49 3 A. Yes.

12:23:49 4 Q. And when you left, given that we have established  
12:23:51 5 that Hunter wasn't there the night before, do you have any  
12:23:55 6 recall that at that moment he was there?

12:23:57 7 A. I do not.

12:23:59 8 Q. Still don't know where he was. So now you leave and  
12:24:03 9 you bring your kids to school?

12:24:05 10 A. Yes.

12:24:05 11 Q. Did you stop after dropping them off at school before  
12:24:09 12 you came back to the house?

12:24:10 13 A. Not that I recall.

12:24:11 14 Q. How long would it be between the time that you went,  
12:24:14 15 left the house, dropped them off at school, and then would  
12:24:17 16 have come back?

12:24:18 17 A. 15 minutes.

12:24:19 18 Q. You were back at the house then perhaps by 8:30?

12:24:23 19 A. Correct.

12:24:24 20 Q. Now, in the sequence of events, you pull into your  
12:24:28 21 driveway?

12:24:29 22 A. Yes.

12:24:29 23 Q. Is that right? And is that when you see the truck?

12:24:33 24 A. I don't recall when I first saw the truck.

12:24:37 25 Q. Okay. But somewhere you did?

Hallie Biden - cross

12:24:40 1 A. Yes.

12:24:40 2 Q. Sometime you did?

12:24:41 3 A. Yes.

12:24:42 4 Q. You don't know whether it was before you took them to  
12:24:45 5 school, but certainly you saw it after you came back?

12:24:48 6 A. Right. I guess what I'm unclear about is if he came  
12:24:54 7 in the middle of the night and that -- got into bed and then  
12:24:57 8 I -- after I took the kids to school, cleaned it out, or if  
12:25:02 9 he arrived at like the 10:00 a.m., I don't recall.

12:25:06 10 Q. You just said something about got into bed. I  
12:25:09 11 thought a few moments ago we said that on the night of the  
12:25:13 12 22nd he wasn't with you, you were asking where he is?

12:25:15 13 A. It could have been at 2 in the morning.

12:25:18 14 Q. It could have been, but what I'm asking is do you  
12:25:21 15 recall?

12:25:21 16 A. I do not recall.

12:25:22 17 Q. You don't know when the truck was put there, whether  
12:25:25 18 it was early morning hours of the 23rd, right?

12:25:28 19 A. Right.

12:25:28 20 Q. But certainly you know it's not before, and you're  
12:25:31 21 asking him later in the evening around 9 o'clock where are  
12:25:34 22 you?

12:25:34 23 A. Yes.

12:25:35 24 Q. And then you cannot tell whether at the point that  
12:25:38 25 you saw the truck it was before or after you dropped your

Hallie Biden - cross

12:25:42 1 kids off?

12:25:44 2 A. Correct.

12:25:44 3 Q. But certainly you didn't go into the truck until  
12:25:47 4 afterwards?

12:25:48 5 A. Right.

12:25:48 6 Q. So you come back from dropping them off from school  
12:25:52 7 as I get it, and do you go into the house, do you  
12:25:55 8 immediately go to the truck, do you go inside to get the  
12:25:58 9 keys, what are you doing?

12:26:01 10 A. That's where I'm still unclear if he had even arrived  
12:26:05 11 yet. If he had already been there, because like I said it  
12:26:08 12 was kind of a pattern. So I don't -- I can do --

12:26:14 13 Q. Sorry, go ahead?

12:26:15 14 A. I can go from cleaning out the truck that day, does  
12:26:19 15 that make sense?

12:26:20 16 Q. It does. But we do have two benchmarks right, we  
12:26:24 17 know you're going to drop your kids off at around 8:30, and  
12:26:28 18 we know of the time stamp of when you get to Janssen's?

12:26:31 19 A. Which is what time?

12:26:32 20 Q. 11:20.

12:26:33 21 A. Okay. We have that.

12:26:35 22 Q. We have that.

12:26:36 23 A. We have that as your--

12:26:38 24 Q. You are back at the house, but you don't remember  
12:26:41 25 specifically, did you have a pattern, let's say the truck



Hallie Biden - cross

12:26:43 1 was there, it was wherever it was on the grass, is that  
12:26:46 2 where you're saying, it was on the grass?

12:26:48 3 A. Yes.

12:26:48 4 Q. Can you tell whether it was on the grass at your  
12:26:51 5 house or behind or whether there was another lot, do you  
12:26:54 6 remember that specifically at this point?

12:26:55 7 A. Yeah, on the yard, on my --

12:26:58 8 Q. On the grass and behind your house, is there another  
12:27:01 9 property I think you said, I think the question was is there  
12:27:03 10 a lot, but not a parking lot, there is another house?

12:27:08 11 A. There is a house, there could be a half a mile  
12:27:14 12 between us, not a mile, sorry, half an acre.

12:27:17 13 Q. Sorry, half an acre?

12:27:19 14 A. Yes.

12:27:19 15 Q. Is that a property you know to be a house or a  
12:27:22 16 property owned by a family named Hobbs?

12:27:25 17 A. Yes.

12:27:25 18 Q. Do you know whether the truck was on your part of  
12:27:29 19 that, their parts of it, or do you have any specific memory  
12:27:32 20 of that piece?

12:27:33 21 A. I believe it was on my property.

12:27:35 22 Q. But nevertheless it was on the grass?

12:27:37 23 A. Correct.

12:27:37 24 Q. Not on the driveway?

12:27:39 25 A. Right.

Hallie Biden - cross

12:27:39 1 Q. Given the normal way of dropping your kids off and  
12:27:42 2 coming back, what I'm asking is do you recall today whether  
12:27:45 3 when you came back, that's immediately when you went to the  
12:27:48 4 truck, did you go inside, did you get keys, what can you  
12:27:51 5 recall about the time you came back and the time you went  
12:27:53 6 inside the truck?

12:27:54 7 A. I don't recall if the car was there, the truck was  
12:27:59 8 there, when I got back or if he drove it in at 9:00. I  
12:28:04 9 don't recall.

12:28:06 10 Q. Okay.

12:28:06 11 A. Sorry.

12:28:07 12 Q. No, don't be sorry, that's why I asked if you'll help  
12:28:12 13 me do the sequence. In the sequence, I think in your  
12:28:15 14 testimony prior to the break, you said at some point you do  
12:28:17 15 have a memory of seeing him, but I don't know that you can  
12:28:20 16 place that hour or a moment on the 23rd?

12:28:23 17 A. Correct.

12:28:24 18 Q. Is that right. If you can't do that, can you tell me  
12:28:27 19 then when he looked exhausted, when was it that he looked  
12:28:30 20 like he hadn't slept, do you know where in the sequence that  
12:28:34 21 would be?

12:28:36 22 A. Either in 2:00 in the morning, those hours, if it was  
12:28:42 23 then, or if it was from that 8:30 to 10 or 11:00 when I  
12:28:52 24 threw it away.

12:28:54 25 Q. Okay. But what your memory, whenever you saw him,

Hallie Biden - cross

12:28:59 1 was tired and exhausted, right?

12:29:01 2 A. Yes.

12:29:01 3 Q. And I think you were asked whether or not then you  
12:29:07 4 would suppose, guess, wonder, whether that was because he  
12:29:12 5 was either using drugs or alcohol?

12:29:14 6 MR. WISE: Objection, I didn't say "wonder" in  
12:29:20 7 the question.

12:29:20 8 BY MR. LOWELL:

12:29:20 9 Q. You didn't see him doing any alcohol or drugs,  
12:29:22 10 correct?

12:29:23 11 A. Correct.

12:29:23 12 Q. Whether you saw him exhausted or whatever the phrase  
12:29:26 13 you used, you don't know whether he was just exhausted and  
12:29:31 14 didn't have any sleep?

12:29:33 15 A. Correct.

12:29:35 16 Q. Next step along the time sequence.

12:30:02 17 On the morning of the 23rd, I want to see if we  
12:30:04 18 can construct when you saw him, okay?

12:30:06 19 A. Okay.

12:30:07 20 Q. Now, again on that morning, do you recall writing him  
12:30:14 21 any texts or calling him and asking him where he was?

12:30:20 22 A. Can I look at this?

12:30:22 23 Q. Well first tell me if you can recall?

12:30:25 24 A. I don't recall.

12:30:26 25 Q. Now, if you'll look at Row 19.

Hallie Biden - cross

12:30:37 1 A. Okay.

12:30:38 2 Q. When you have done that, look up.

12:30:41 3 Does that refresh your recollection as to  
12:30:43 4 whether or not in the morning you reached out to him?

12:30:47 5 A. I have on the 19th, that was the evening before.

12:30:51 6 Q. I'm sorry, I did that wrong, didn't I? Look at  
12:31:05 7 Row 20. And now look up after you have done that?

12:31:12 8 A. Okay.

12:31:13 9 Q. Okay. So looking at Row 20, does that refresh your  
12:31:17 10 recollection if you reached out to him in the morning of the  
12:31:20 11 23rd mid-morning, in some fashion to find out where he was?

12:31:28 12 A. I don't really understand that because of the  
12:31:32 13 context, so I don't recall.

12:31:34 14 Q. If he was with you at that time, and if he was, as  
12:31:40 15 you pointed it out, may have been there, would you ask him  
12:31:45 16 anything about an Uber?

12:31:47 17 A. No.

12:31:48 18 Q. So if you were asking him anything about an Uber,  
12:31:52 19 would that be for him to come with an Uber to where you  
12:31:56 20 were, or where?

12:32:01 21 A. I don't know.

12:32:02 22 Q. Okay.

12:32:03 23 A. Because why wouldn't I drive?

12:32:06 24 Q. I can't answer that. But do you recall at the time  
12:32:10 25 being in a text exchange with Hunter? We've said on the

Hallie Biden - cross

12:32:15 1 22nd and clearly we're on the 23rd, right?

12:32:19 2 A. Right.

12:32:20 3 Q. And you remember that you were sending texts in the  
12:32:22 4 morning of the 23rd as well?

12:32:24 5 A. Correct.

12:32:24 6 Q. And when you sent him a text, you knew how to text  
12:32:28 7 him, what number it was going to?

12:32:30 8 A. Yes.

12:32:30 9 Q. And with the texts that you have seen that the  
12:32:35 10 government has shown you, and one that I have entered into  
12:32:38 11 evidence by reading, would that be an accurate depiction of  
12:32:42 12 what you would have sent him?

12:32:44 13 A. Yes.

12:32:44 14 MR. LOWELL: Your Honor, we move in, so that I  
12:32:46 15 can read the text at ten, on October 23rd at 10:23.

12:32:53 16 THE COURT: 10/24?

12:32:57 17 MR. LOWELL: 10/23 at Row 20.

12:33:03 18 THE COURT: You can read it in.

12:33:07 19 MR. LOWELL: Thank you.

12:33:08 20 BY MR. LOWELL:

12:33:08 21 Q. So on 10/23, October 23rd, 10:23 in the morning, did  
12:33:14 22 you say to him "call Uber"?

12:33:17 23 A. Yes.

12:33:17 24 Q. And then following that, did you remember texting him  
12:33:22 25 again. Can you look up and tell me, was there an exchange

Hallie Biden - cross

12:33:27 1 with him, you texted him "call Uber." Did you text him  
12:33:31 2 again?

12:33:31 3 A. I don't recall off the top of my head.

12:33:34 4 Q. Now, would you please look down on Row 21, and look  
12:33:37 5 up when you have done it?

12:33:40 6 A. Yes.

12:33:40 7 Q. Okay. Having done that, does it refresh your  
12:33:44 8 recollection that you were asking him to come home?

12:33:46 9 A. Yes.

12:33:47 10 Q. And that's a minute later than the one I read into  
12:33:49 11 the record?

12:33:50 12 A. Yes.

12:33:50 13 Q. So if you're asking him to come home at 10:24, that  
12:33:56 14 would obviously mean he wasn't there then?

12:33:58 15 A. Correct.

12:34:07 16 Q. Did you understand at that time in the morning or in  
12:34:10 17 the night before, that he was staying at a hotel?

12:34:16 18 A. I don't think I knew where he was.

12:34:18 19 Q. Okay. You do remember being in an exchange, will you  
12:34:24 20 now look at Row 22? And doing so, look up after you've read  
12:34:29 21 it. Do you remember having an exchange with him as the  
12:34:35 22 morning progressed? The last one I read in where the time  
12:34:39 23 was 10:24. Do you remember that you continued to text  
12:34:43 24 exchange with him that morning?

12:34:45 25 A. I see that.

Hallie Biden - cross

12:34:46 1 Q. I'm asking if you remember?

12:34:47 2 A. I don't remember, no.

12:34:48 3 Q. And my question was do you remember whether he was  
12:34:51 4 staying at a hotel?

12:34:52 5 A. I don't remember.

12:34:53 6 Q. Now looking down, does that refresh your recollection  
12:34:56 7 that you did in fact know that he was staying at a hotel?

12:35:00 8 MR. WISE: I'll object, that's not what the --  
12:35:03 9 we're looking at the text, that's not what that said.

12:35:06 10 MR. LOWELL: Row 22.

12:35:08 11 MR. WISE: That doesn't mean she knows he was  
12:35:11 12 staying at a hotel.

12:35:12 13 MR. LOWELL: I asked whether it refreshed her  
12:35:14 14 recollection whether or not she knew that he was at a hotel.

12:35:17 15 THE COURT: She can say yes or no as to whether  
12:35:19 16 that reminds her, refreshed her recollection that she knew  
12:35:23 17 he was.

12:35:23 18 THE WITNESS: Yes.

12:35:25 19 MR. LOWELL: That's what I hoped I did, so if I  
12:35:28 20 didn't, let me do it again. Does that refresh your  
12:35:31 21 recollection as to whether or not you knew he was at a  
12:35:33 22 hotel?

12:35:34 23 THE WITNESS: Yes.

12:35:34 24 BY MR. LOWELL:

12:35:34 25 Q. So having looked at that, as of the mid-morning, you

Hallie Biden - cross

12:35:40 1 now are refreshed that he was not at your house, that he was  
12:35:43 2 at a hotel?

12:35:47 3 A. Yes.

12:35:50 4 MR. WISE: Well which, that's a compound  
12:35:52 5 question.

12:35:52 6 THE COURT: I know. It's very confusing because  
12:35:56 7 I don't know if that means he left, he came back.

12:35:58 8 THE WITNESS: Right, I don't remember either.

12:35:59 9 THE COURT: So if -- it's just better if you  
12:36:04 10 don't remember, you -- we want the record to be clear what  
12:36:07 11 you remember and what you don't remember. If you don't  
12:36:09 12 remember, it's okay, nobody is going to think, as long as  
12:36:13 13 it's truthfully you don't remember, that's okay.

12:36:16 14 THE WITNESS: Okay.

12:36:16 15 THE COURT: When he says does it refresh your  
12:36:18 16 recollection, you can say yes or no.

12:36:21 17 THE WITNESS: Okay.

12:36:21 18 THE COURT: It does, I still don't remember it,  
12:36:24 19 I see there is text, we all get e-mails and texts every day  
12:36:27 20 that you don't remember.

12:36:29 21 THE WITNESS: Okay, I don't remember.

12:36:30 22 THE COURT: But then he can follow up and try  
12:36:32 23 and say well, would you have recorded this at the time,  
12:36:36 24 whatever, and he can try and deal with it differently.

12:36:38 25 THE WITNESS: Okay. I don't remember.



Hallie Biden - cross

12:36:39 1 BY MR. LOWELL:

12:36:40 2 Q. So now you don't remember?

12:36:41 3 A. I don't remember.

12:36:42 4 Q. As I asked you before, you understand and you agree  
12:36:45 5 that you're sending a text?

12:36:46 6 A. Yes.

12:36:46 7 Q. And the ones you identified are among those?

12:36:49 8 A. Yes.

12:36:49 9 Q. And that text exchange continued and it reflects what  
12:36:53 10 you would have sent him that day?

12:36:55 11 A. Yes.

12:36:55 12 Q. It was the same day that you were identifying other  
12:36:58 13 texts?

12:36:58 14 A. Yes.

12:36:59 15 Q. You knew where to send it to?

12:37:01 16 A. Yes.

12:37:01 17 Q. Having done that, I am now going to read into the  
12:37:04 18 record what you in fact said in that text exchange. And on  
12:37:12 19 October 23rd, 2018, at 10:46, you wrote, if I say it right  
12:37:19 20 "where is hotel and room number??" Two question marks.

12:37:25 21 Right, I read that correctly?

12:37:26 22 A. Yes.

12:37:27 23 Q. And you sent that to him then?

12:37:30 24 A. Yes.

12:37:30 25 Q. That reflects that at that moment you had an

Hallie Biden - cross

12:37:33 1 understanding --

12:37:33 2 THE COURT: Wait, wait, wait, no, we decided  
12:37:35 3 that --

12:37:36 4 MR. LOWELL: Okay, I stand corrected. Judge, I  
12:37:38 5 am trying to do this carefully.

12:37:40 6 THE COURT: I know, you're trying to do it  
12:37:42 7 carefully and it's difficult, but we had an agreement on  
12:37:45 8 that.

12:37:46 9 MR. LOWELL: Okay. So you did send that text  
12:37:48 10 and it does use the word "hotel"?

12:37:50 11 THE WITNESS: Yes.

12:37:50 12 BY MR. LOWELL:

12:37:51 13 Q. And then I want you to look at what I just read in  
12:37:56 14 and the time. Right? And it says 10:46. That's the time  
12:38:01 15 of that one?

12:38:02 16 A. Okay.

12:38:03 17 Q. You dropped your kids off at 8:30, I'm sorry, before,  
12:38:07 18 and you came back. Had you yet gone into his truck at this  
12:38:11 19 point? It's two hours and change later?

12:38:19 20 A. Then no, if he's not at my house.

12:38:22 21 Q. Well, but you said you're not sure that the truck  
12:38:25 22 wasn't there at that time. The truck could be there and he  
12:38:28 23 not be there, right?

12:38:29 24 A. Well, how?

12:38:31 25 Q. Okay. I mean, he could drop the truck off--

Hallie Biden - cross

12:38:35 1 MR. WISE: She can't ask him questions.

12:38:37 2 THE WITNESS: Sorry.

12:38:38 3 THE COURT: And what he says is not evidence.

12:38:42 4 THE WITNESS: Okay.

12:38:43 5 BY MR. LOWELL:

12:38:43 6 Q. Okay. Somebody could have -- be in their car and  
12:38:48 7 somebody else be in the car next to them and drop a truck  
12:38:51 8 off and then go in that person's car and leave, could that  
12:38:54 9 happen?

12:38:55 10 A. That could.

12:38:55 11 Q. Somebody could call an Uber, you saw a reference to  
12:38:59 12 an Uber?

12:39:00 13 A. Yes.

12:39:00 14 Q. What I'm asking, again going backwards in time,  
12:39:04 15 you're not sure when the truck was on the property you  
12:39:07 16 identified?

12:39:08 17 A. Correct.

12:39:08 18 Q. But now that I'm looking at 10:46 as a time stamp,  
12:39:13 19 you're not sure whether you did or did not find the gun  
12:39:17 20 before then?

12:39:21 21 A. If we're not talking about the gun, I don't think I  
12:39:24 22 found it yet.

12:39:25 23 Q. Okay. That was going to be my next question to you.  
12:39:29 24 If you had found the gun by any particular time in the  
12:39:34 25 morning, you have testified about what you did when you did

Hallie Biden - cross

12:39:39 1 it, and we know from some time stamp that at 11:20 you're at  
12:39:44 2 Janssen's, is there anything you recall, calling him  
12:39:48 3 immediately and telling him?

12:39:50 4 A. No, I did not call him and tell him.

12:39:54 5 Q. Okay. Then the next sequence is I think you were  
12:40:06 6 asked whether or not you know when, if the truck left the  
12:40:13 7 property you identified, do you remember?

12:40:18 8 A. When it left?

12:40:19 9 Q. The grass, the property? You obviously found  
12:40:24 10 something in it; right?

12:40:25 11 A. Right.

12:40:26 12 Q. And then at some point later when you came back, it  
12:40:30 13 wasn't there, later in the day?

12:40:33 14 A. Well, he drove it to Janssen's --

12:40:37 15 Q. Do you know if he drove it directly to Janssen's. Do  
12:40:41 16 you know where he was before the incident when you and he  
12:40:46 17 were at Janssen's?

12:40:47 18 A. I'm not sure.

12:40:48 19 Q. Do you know whether or not on that day he had an  
12:40:50 20 indication that he was going to Washington D.C. on the 23rd?

12:40:54 21 A. I don't recall.

12:40:55 22 Q. Do you recall anything about one of his daughters  
12:41:00 23 living in D.C. at the time?

12:41:01 24 A. Yes.

12:41:02 25 Q. Was there a daughter named Maisy that he had?

Hallie Biden - cross

12:41:05 1 A. Yes.

12:41:05 2 Q. Was Maisy in school in Washington at that period of  
12:41:09 3 time?

12:41:09 4 A. Yes.

12:41:10 5 Q. And she was in high school?

12:41:12 6 A. Yes.

12:41:13 7 Q. Do you recall Mr. Biden, Hunter, telling you he was  
12:41:18 8 going to see Maisy at Washington for a game?

12:41:23 9 A. Via text message or in person?

12:41:25 10 Q. I'm asking you, do you recall any conversation about  
12:41:28 11 where he was intending to go on the 23rd?

12:41:30 12 A. No, because I can only see it from the text messages.

12:41:35 13 Q. I want you to look, see if this refreshes your  
12:41:39 14 recollection, if you will look at Row 24?

12:41:42 15 A. Mine says --

12:41:43 16 Q. Don't say what it says?

12:41:44 17 A. No, I meant I don't have Row 24.

12:41:47 18 THE COURT: You're asking for hearsay, right,  
12:41:49 19 are you asking what he said or what she said?

12:41:52 20 MR. LOWELL: I'm asking whether looking at  
12:41:53 21 anything refreshes her recollection, not whether it's in the  
12:41:57 22 record, not whether it can be admissible, but anything can  
12:42:00 23 refresh the witness so I'm asking.

12:42:03 24 MR. WISE: I think there is no Row 24.

12:42:07 25 MR. LOWELL: I'm sorry. May I approach?

Hallie Biden - cross

12:42:13 1 BY MR. LOWELL:

12:42:13 2 Q. What I want you to do is what we have done before,  
12:42:16 3 take a look at this page and look at Row 24, just Row 24,  
12:42:20 4 and read it to yourself.

12:42:22 5 THE COURT: And then does it refresh your  
12:42:23 6 recollection, not what you're reading.

12:42:28 7 BY MR. LOWELL:

12:42:28 8 Q. Do you see it? Does reading that refresh your  
12:42:31 9 recollection of whether or not you understood he was on his  
12:42:35 10 way to Washington D.C. to see his daughter Maisy?

12:42:39 11 A. That that was the intention?

12:42:40 12 Q. Yes.

12:42:41 13 A. Yes.

12:42:44 14 MR. LOWELL: Your Honor, keep going, I mean, I  
12:42:47 15 just don't want to keep people.

12:42:49 16 THE COURT: It's 12:42. We'll take our lunch  
12:42:53 17 break.

12:42:53 18 COURTROOM DEPUTY: All rise.

12:42:56 19 (Jury exiting the courtroom at 12:42 p.m.)

12:43:18 20 THE COURT: All right. We usually take about an  
12:43:26 21 hour. Is that all right?

12:43:27 22 THE WITNESS: Sure.

12:43:29 23 MR. LOWELL: May we approach before you leave  
12:43:30 24 the bench?

12:43:31 25 THE COURT: You can go.

Hallie Biden - cross

12:43:34 1 (A luncheon recess was taken.)

13:14:28 2 (Side-bar discussion:)

13:14:28 3 THE COURT: So one of the jurors said to Mark  
13:14:28 4 when she was leaving that when we were over here at  
13:14:28 5 side-bar, that they noticed that she was communicating with  
13:14:28 6 someone in the back. Now, I don't know if she has a lawyer  
13:14:28 7 here.

13:14:28 8 MR. HINES: She does.

13:14:28 9 MR. WISE: Well, it's her husband. She got  
13:14:28 10 married this weekend and I can see him in back.

13:14:28 11 THE COURT: So she was communicating with  
13:14:28 12 someone. They were like mouthing something to her. My  
13:14:28 13 guess is it was something on the order of, you know --

13:14:28 14 MR. LOWELL: What a jerk I am.

13:14:28 15 THE COURT: My guess.

13:14:28 16 MR. LOWELL: Could you clean that one up. What  
13:14:28 17 a jerk I am. Thank you.

13:14:28 18 MR. HINES: No objection.

13:14:28 19 THE COURT: Okay. So they noticed -- so one  
13:14:28 20 juror, it's the second alternate, so we know we have the two  
13:14:28 21 younger women, so it's one of them. And then she said to  
13:14:28 22 him -- and you can ask Mark questions, too, she said to him  
13:14:28 23 and other jurors noticed, too.

13:14:28 24 MR. LOWELL: So I'm sorry to get this right,  
13:14:28 25 Mark, Mr. Buckson, the first -- second alternate says it to

Hallie Biden - cross

13:14:28 1 you?

13:14:28 2 COURTROOM DEPUTY: She stays behind and says, "I  
13:14:28 3 have to talk to you a minute."

13:14:28 4 MR. LOWELL: When she did, she said other jurors  
13:14:28 5 saw it, too?

13:14:28 6 COURTROOM DEPUTY: She told me what happened and  
13:14:28 7 said other jurors saw it, too.

13:14:28 8 MR. LOWELL: Meaning that they talked about it.

13:14:28 9 THE COURT: That's what I said to Mark, that's  
13:14:28 10 why I want to tell you guys everything that they said.

13:14:28 11 Now what I don't know -- my guess is, it was on  
13:14:29 12 the way out the door, so it wasn't like they had talked  
13:14:29 13 about it in the jury room. It was probably one of those  
13:14:29 14 things where they were like this, you know, but I don't know  
13:14:29 15 that.

13:14:29 16 MR. LOWELL: I understand.

13:14:29 17 THE COURT: So if you guys want to ask, you can.  
13:14:29 18 So what I thought I would do is tell you now, even though I  
13:14:29 19 interrupted your lunch, so you can go back, you can figure  
13:14:29 20 out who the person was.

13:14:29 21 MR. WISE: I saw him.

13:14:29 22 MR. LOWELL: She also has her lawyer.

13:14:29 23 MR. WISE: I mean, if someone is mouthing like  
13:14:29 24 hang in there, doing, whatever it is, I'm guessing it's the  
13:14:29 25 husband, I don't think a lawyer is mouthing something.



Hallie Biden - cross

13:14:29 1 THE COURT: I don't know who she was doing it  
13:14:29 2 with. Maybe you can go figure out. Maybe you can find out  
13:14:29 3 what they are saying and you guys can figure out what you  
13:14:29 4 want to do if you want to talk to the jury or you want me to  
13:14:29 5 talk to the jury.

13:14:29 6 MR. LOWELL: Or maybe we let it be.

13:14:29 7 THE COURT: Let it be with a reminder that don't  
13:14:29 8 talk to each other.

13:14:29 9 MR. WISE: My only concern if she think she's  
13:14:29 10 being coached or something.

13:14:29 11 THE COURT: If she's doing something improper.

13:14:29 12 MR. WISE: I don't want that impression to be  
13:14:29 13 left on them.

13:14:29 14 MR. LOWELL: Unfortunately, to figure that out,  
13:14:29 15 you would have to start inquiring who were you talking to,  
13:14:29 16 what were you mouthing, what was he mouthing back, and that  
13:14:29 17 concerns me as much as, you know, as anything because why --  
13:14:29 18 how is that helpful, right.

13:14:29 19 Let's figure out before we bring them back what  
13:14:29 20 is the least that is necessary, if anything, because if you  
13:14:29 21 start inquiring, how is that helpful, right, I don't think  
13:14:29 22 that's helpful. I understand you don't want the jury to  
13:14:29 23 think she's being coached, certainly not by my party.

13:14:29 24 MR. WISE: Right.

13:14:29 25 MR. LOWELL: But I wonder how do you do that

Hallie Biden - cross

13:14:29 1 with finesse. Nothing comes to my mind at the moment, but  
13:14:29 2 I'll try to put my mind to it.

13:14:29 3 Thank you for telling us. And right now I don't  
13:14:29 4 have anything I would suggest, but I'll talk to you all  
13:14:29 5 about it.

13:14:29 6 THE COURT: Maybe you guys, somebody can just  
13:14:29 7 check with her lawyer and husband and find out what that  
13:14:29 8 was.

13:14:29 9 MR. LOWELL: Thanks, Your Honor, for bringing it  
13:14:29 10 to our attention.

13:43:51 11 (End of side-bar.)

13:43:51 12 COURTROOM DEPUTY: All rise.

13:48:37 13 THE COURT: All right. So can I just see  
13:48:44 14 counsel for one second.

13:53:43 15 (Side-bar discussion.)

13:53:43 16 THE COURT: So you want me to do what?

13:53:43 17 MR. LOWELL: I thought the, we talked, I think  
13:53:43 18 what we agreed was you don't have to do it right away or  
13:53:43 19 whenever you would, it would just be the normal instructions  
13:53:43 20 to the jury just a reminder that you shouldn't be talking to  
13:53:43 21 each other about the case, among yourselves of anything  
13:53:43 22 that's happening, you have that, I don't know exactly the  
13:53:43 23 words.

13:53:43 24 THE COURT: And then with respect to the  
13:53:43 25 discussions, are you okay if they just want to ask her, do

Hallie Biden - cross

13:53:43 1 you have someone here supporting you or something so the  
13:53:43 2 jury understands?

13:53:43 3 MR. LOWELL: I would object to that as somebody  
13:53:43 4 here supporting you.

13:53:43 5 THE COURT: Someone here --

13:53:43 6 MR. LOWELL: I mean, if you want to say do you  
13:53:43 7 have a relative -- I mean, I don't know. My view is do the  
13:53:43 8 least. But if you feel like something needs to be said.  
13:53:43 9 But I don't know how that doesn't make it worse.

13:53:43 10 MR. WISE: Was your impression that they thought  
13:53:43 11 it was something wrong going on?

13:53:43 12 COURTROOM DEPUTY: Kind of.

13:53:43 13 MR. WISE: Okay.

13:53:43 14 COURTROOM DEPUTY: It was a suspicious.

13:53:43 15 MR. LOWELL: Let's say she has a relative, the  
13:53:43 16 problem, it still opens the door, what was your relative  
13:53:43 17 saying to you, were they just giving you a high five.

13:53:43 18 MR. WISE: The question would be Ms. Biden were  
13:53:43 19 you recently married, yes, just this week, is your husband  
13:53:43 20 here in audience to support you, yes.

13:53:43 21 MR. LOWELL: Not support you.

13:53:43 22 MR. WISE: Yeah, that's what spouses do.

13:53:43 23 THE COURT: Is your husband here with you.

13:53:43 24 MR. WISE: At the breaks, have you been looking  
13:53:43 25 at him and exchanging supportive words, has anyone been

Hallie Biden - cross

13:53:43 1 telling you what to testify about.

13:53:44 2 MR. LOWELL: I object to all those questions.

13:53:44 3 THE COURT: Well, I don't object to has anyone  
13:53:44 4 told you what to testify.

13:53:44 5 MR. LOWELL: I mean in general, yeah.

13:53:44 6 MR. WISE: I don't know what the prejudice is  
13:53:44 7 for her to say my husband is in the audience, I have been  
13:53:44 8 looking at him and he's been looking at me for support.

13:53:44 9 MR. LOWELL: For support, how about I have been  
13:53:44 10 looking at him and he's been looking at me.

13:53:44 11 THE COURT: And anything in that, was he telling  
13:53:44 12 you what to say, or something like that?

13:53:44 13 MR. WISE: Okay.

13:53:44 14 THE COURT: People are telling you what your  
13:53:44 15 testimony should be, something like that.

13:53:44 16 MR. WISE: Yeah.

13:53:44 17 THE COURT: Because I -- look, I'm just  
13:53:44 18 concerned that the jury, there was nothing -- I don't think  
13:53:44 19 there is anything that she did wrong.

13:53:44 20 MR. WISE: We confirmed with the lawyer, we said  
13:53:44 21 is she talking to you, no, no, the husband is here.

13:53:44 22 He's not going to obviously tell her anything  
13:53:44 23 about her testimony, but I am concerned that we're leaving  
13:53:44 24 an impression with the jury that she's doing something  
13:53:44 25 wrong, so if you just want to say, were you recently

Hallie Biden - cross

13:53:44 1 married, is your husband here with you, and then have you  
13:53:44 2 during breaks looked to him, and did anything that you do --  
13:53:44 3 any of your interactions about your testimony or something  
13:53:44 4 like that.

13:53:44 5 MR. WISE: Okay.

13:53:44 6 MR. LOWELL: Say that, were any of your  
13:53:44 7 interactions, sorry, were any of your interactions about  
13:53:44 8 your testimony.

13:53:44 9 THE COURT: Yes.

13:53:44 10 MR. LOWELL: Is that the phrase?

13:53:44 11 THE COURT: Yes. I was just trying to get at  
13:53:44 12 that it's not influencing her testimony, but if there is a  
13:53:44 13 better word for that.

13:53:44 14 MR. WISE: I think maybe while you are on the  
13:53:44 15 stand.

13:53:44 16 THE COURT: Yes. While you were on the stand  
13:53:44 17 did you occasionally look to him, was any of that about your  
13:53:44 18 testimony?

13:53:44 19 MR. LOWELL: I mean --

13:53:44 20 THE COURT: I know, and you can object and if  
13:53:44 21 you have to object now.

13:53:44 22 MR. LOWELL: Why don't, we could that now, let  
13:53:44 23 me do it now. Yeah, I just think the more we inquire, the  
13:53:44 24 worse it gets, so I object to anything other than the  
13:53:44 25 instruction to the jury, telling them that you're not

Hallie Biden - cross

13:53:44 1 supposed to be talking about the case before you deliberate.

13:53:44 2 THE COURT: I understand. The problem is that  
13:53:44 3 horse is out of the barn and I can instruct them on that  
13:53:44 4 going forward, but for this particular horse and barn, I  
13:53:44 5 don't want the jury left with the impression that something  
13:53:44 6 nefarious was going on. I have enough issues with her  
13:53:44 7 testimony let alone something wrong.

13:53:44 8 MR. LOWELL: Let's put this horse back in the  
13:53:44 9 barn, but can we do it with the fewest number of kicks to  
13:53:44 10 the side, to use the analogy.

13:53:44 11 THE COURT: Yes. I think that's what it is, if  
13:53:44 12 you think there is a way that we can kick less, I took out  
13:53:44 13 support.

13:53:44 14 MR. LOWELL: Right.

13:53:44 15 THE COURT: I took out support and all I wanted  
13:53:45 16 to clarify is it didn't have anything to do with -- he  
13:53:45 17 doesn't know anything about her testimony.

13:53:45 18 MR. LOWELL: But we don't have to explain that.

13:53:45 19 THE COURT: Exactly.

13:53:45 20 MR. LOWELL: Okay.

13:53:53 21 (End of side-bar. )

13:53:57 22 THE COURT: All right. We can bring in the  
13:54:00 23 jury.

13:54:17 24 (Jury entering the courtroom at 1:54 p.m.)

13:55:43 25 THE COURT: All right, everyone, welcome back.

Hallie Biden - cross

13:55:50 1 You can be seated. Members of the jury. Welcome back. And  
13:55:53 2 I hope if you went outside, you're able to enjoy the less  
13:55:58 3 humid weather in here if it's a little chilly. Mr. Lowell  
13:56:04 4 please continue.

13:56:05 5 MR. LOWELL: Thank you, Your Honor. Good  
13:56:06 6 afternoon, ladies and gentlemen, good afternoon, Ms. Biden.  
13:56:08 7 And thank you for helping put together the sequence and I  
13:56:11 8 don't have a lot more.

13:56:12 9 BY MR. LOWELL:

13:56:13 10 Q. Where we left off before lunch was still trying to  
13:56:15 11 figure out the time sequence on the morning of the 23rd. Do  
13:56:19 12 you remember that that's where we left off?

13:56:21 13 A. Yes.

13:56:22 14 Q. So with that in mind, I want to turn first to  
13:56:28 15 figuring out as best as you can you at some point we know go  
13:56:34 16 into the truck, we know that.

13:56:36 17 A. Yes.

13:56:36 18 Q. And you're searching around, we know that?

13:56:39 19 A. Yes.

13:56:39 20 Q. We know that's when you found the gun?

13:56:42 21 A. Correct.

13:56:42 22 Q. And you said in your testimony this morning that you  
13:56:44 23 believed you also had seen, I think what you called,  
13:56:47 24 remnants or also paraphernalia?

13:56:51 25 A. Yes.

Hallie Biden - cross

13:56:51 1 Q. Okay. You had done that many times in the past I  
13:56:55 2 think you said in the earlier years when you and Mr. Biden  
13:56:58 3 were using?

13:56:59 4 A. Yes.

13:57:00 5 Q. And I imagine there was more than one of those?

13:57:03 6 A. Yes.

13:57:03 7 Q. So on that day, I don't know if you said this and if  
13:57:11 8 so I'll skip it again, remnants meaning, what did you think  
13:57:15 9 you saw?

13:57:16 10 A. Like dusting.

13:57:18 11 Q. Dusting. Okay. Not a piece?

13:57:21 12 A. No.

13:57:22 13 Q. But a dust?

13:57:23 14 A. Correct.

13:57:23 15 Q. And search your memory, on the car seat, on the  
13:57:29 16 steering wheel, on the outside of the console, on the mat?

13:57:35 17 A. I don't recall.

13:57:37 18 Q. And paraphernalia, not like the thing you said you  
13:57:41 19 found in the pouch at the end of October, what do you  
13:57:46 20 recall, if anything, about what that was that day?

13:57:49 21 A. I don't recall exactly what it was.

13:57:53 22 Q. And on that day as we've established, you don't have  
13:57:57 23 a specific memory about where he was or when he was there,  
13:58:03 24 and other of the details, and in here, too, you just have  
13:58:07 25 this general memory of that?



Hallie Biden - cross

13:58:10 1 MR. WISE: Your Honor, I'll object, her  
13:58:11 2 testimony was he was at the house, he didn't --

13:58:15 3 MR. LOWELL: I'll withdraw and restate, okay.

13:58:17 4 THE COURT: Okay. So you're withdrawing your  
13:58:21 5 question?

13:58:21 6 MR. LOWELL: I withdraw the question.

13:58:23 7 BY MR. LOWELL:

13:58:24 8 Q. So on that morning you're not certain when you went  
13:58:26 9 in the car?

13:58:27 10 A. Correct.

13:58:27 11 Q. You're not certain when you saw him?

13:58:33 12 A. Correct.

13:58:33 13 Q. You're not certain as to the sequence of whether it  
13:58:37 14 happened when after you came back from dropping your kids?

13:58:40 15 A. Correct.

13:58:41 16 Q. And similarly, you have this general impression that  
13:58:43 17 there was, to use your phrase, some powder and some  
13:58:48 18 paraphernalia and you don't know what that was?

13:58:50 19 MR. WISE: Again, object, it wasn't a general  
13:58:53 20 impression, she testified that's what she found.

13:58:56 21 THE COURT: Okay. So the jury can, both the  
13:59:00 22 lawyers stuff is not evidence, you can remember what she  
13:59:03 23 said. And but Mr. Lowell, if you'll just ask her, take out  
13:59:11 24 your generalizations and if you'll make an objection without  
13:59:14 25 giving so many specifics.

Hallie Biden - cross

13:59:17 1 MR. WISE: Thank you, Your Honor.

13:59:18 2 MR. LOWELL: Okay.

13:59:20 3 BY MR. LOWELL:

13:59:20 4 Q. I'm just trying to compare the specificity of what  
13:59:24 5 you remember versus some general. Okay? And if I didn't do  
13:59:29 6 it right, I'll try it again.

13:59:30 7 Powder I understand, remnants, you're not having  
13:59:34 8 a memory of what, if anything, that was; is that right?

13:59:39 9 A. Correct.

13:59:40 10 Q. So we do know that at some point you're doing what  
13:59:47 11 you described your morning events to be, and now I would  
13:59:51 12 like to turn to in your book, if you'll turn to Exhibit 17.  
14:00:09 13 In that morning you also -- I think you testified that you  
14:00:13 14 had phone conversations with Hunter, as well. On the  
14:00:18 15 morning of the --

14:00:19 16 A. Do I look at the book?

14:00:21 17 Q. Sorry, no, first --

14:00:23 18 A. Okay.

14:00:24 19 Q. Before looking at anything.

14:00:26 20 A. Okay.

14:00:27 21 Q. In the morning, you had telephone conversations with  
14:00:31 22 Hunter, as well as texts; is that a fair statement?

14:00:34 23 A. I don't recall them.

14:00:36 24 Q. Okay. But I'm generally speaking, do you recall that  
14:00:40 25 you guys talked by phone on the day that you recovered the

Hallie Biden - cross

14:00:44 1 gun?

14:00:45 2 A. Yes.

14:00:45 3 Q. And my question, then, is if you don't remember the  
14:00:50 4 specifics, if you'll -- hold on.

14:01:02 5 So if you will turn, please, to page -- to  
14:01:07 6 DX-17, it should be in the book and if you can't find it,  
14:01:11 7 let me know. It should have a tab. Tell me when you're  
14:01:21 8 there.

14:01:21 9 A. I'm there.

14:01:21 10 Q. Okay. So for the purposes of my questioning of you,  
14:01:25 11 I'm going to only read to you for the morning of  
14:01:30 12 October 23rd, times of calls from you to him or him to you.

14:01:36 13 A. Okay.

14:01:36 14 Q. Okay. So I would like you to look at that. Am I  
14:01:40 15 correct that on October 23rd of 2018 at 9:51 a.m., you  
14:01:45 16 called him?

14:01:47 17 A. I'm on the wrong --

14:01:49 18 Q. I'm sorry.

14:01:50 19 MR. LOWELL: Can I approach?

14:01:53 20 THE WITNESS: Page 2 of that.

14:01:55 21 BY MR. LOWELL:

14:01:55 22 Q. I think it's page -- 10/23. I'm sorry. Page 3. And  
14:02:04 23 I'll tell you which, look at the time stamp, please. So if  
14:02:12 24 you look at Row 68?

14:02:19 25 A. Yes.

Hallie Biden - cross

14:02:20 1 Q. I'm sorry, so yes, and at 9:51, you're calling him?

14:02:25 2 A. Yes. That's what this says.

14:02:28 3 Q. And there is an indication in the columns that there  
14:02:30 4 was no answer?

14:02:32 5 A. Yes.

14:02:32 6 Q. At 9:51, when you tried to call him, were you calling  
14:02:39 7 him because by that point in the sequence of events you had  
14:02:43 8 found the gun?

14:02:44 9 A. I don't recall.

14:02:45 10 Q. Then a few minutes later on the same morning, if  
14:02:53 11 you'll look at Row 69 at 9:56, he calls you. Yes?

14:03:00 12 A. Yes.

14:03:01 13 Q. Okay. And that one was a call for a minute and  
14:03:05 14 20 seconds?

14:03:06 15 A. Yes.

14:03:06 16 Q. Now, if you're calling him in the morning at those  
14:03:09 17 two places, is it right that you wouldn't be calling him if  
14:03:15 18 he was either in your house, or right in the driveway?

14:03:19 19 A. Correct.

14:03:19 20 Q. So he's someplace else?

14:03:21 21 A. Yes.

14:03:21 22 Q. In the morning?

14:03:23 23 A. Yes.

14:03:23 24 Q. And then if you'll look again, and that's a minute  
14:03:26 25 and 20, yes?

Hallie Biden - cross

14:03:29 1 A. Yes.

14:03:30 2 Q. Okay. And I'm sure that would be the case that five  
14:03:34 3 years later, you don't know what was spoken in that minute  
14:03:38 4 and 20?

14:03:38 5 A. Correct.

14:03:39 6 Q. Is it your memory, though, that at that point, you  
14:03:44 7 had found the gun? You just don't know?

14:03:45 8 A. I don't recall.

14:03:46 9 Q. And then six minutes later, if you look at Row 70,  
14:03:50 10 it's now 10:02, right?

14:03:53 11 A. Yes.

14:03:53 12 Q. And he calls you, correct?

14:03:57 13 A. Yes.

14:03:57 14 Q. And that call is 1 minute and 33?

14:04:03 15 A. Yes.

14:04:03 16 Q. Now at 10:02 in the morning, I'm imaging from your  
14:04:07 17 testimony and what we saw in the video that you're still  
14:04:14 18 home?

14:04:14 19 A. Yes.

14:04:15 20 Q. So he's not there either?

14:04:17 21 A. Yes.

14:04:18 22 Q. And then 28 minutes later on the same morning, you  
14:04:23 23 call him. And that's at 10:30; right?

14:04:29 24 A. Yes.

14:04:30 25 Q. And that one lasts a little bit more than a minute?

Hallie Biden - cross

14:04:35 1 A. Yes.

14:04:36 2 Q. And so far at that point at 10:30, if you're calling  
14:04:41 3 him, we can establish that at 10:30, he's not there?

14:04:47 4 A. Yes.

14:04:58 5 Q. In your testimony before lunch, you had talked about  
14:05:04 6 finding the gun, looking for someplace to put it, and at  
14:05:10 7 some point, you went in your house to get a bag. Is that  
14:05:17 8 right?

14:05:17 9 A. Correct.

14:05:18 10 Q. Now, I want to establish in the sequence whether you  
14:05:22 11 went in the house to get a bag, and then you said you  
14:05:27 12 retrieved a leather pouch, or it's the other way around?

14:05:31 13 A. I don't recall.

14:05:33 14 Q. But you went into the house and you got a bag and the  
14:05:37 15 first bag was like -- how did you describe it, a gift bag?

14:05:41 16 A. Like a little gift shopping bag.

14:05:44 17 Q. Show me the size.

14:05:45 18 A. Like that.

14:05:45 19 Q. Is that where you ended up putting what you found?

14:05:48 20 A. Yes.

14:05:49 21 Q. Is that what you ended up bringing to Janssen's?

14:05:52 22 A. Yes.

14:05:53 23 Q. If you saw in the video that the government's  
14:05:56 24 attorneys played, you see it and it was like a purple bag?

14:06:00 25 A. Yes.

Hallie Biden - cross

14:06:02 1 Q. And after you put it in the bag, and again, you can't  
14:06:07 2 tell us today whether the gift bag or the pouch came first;  
14:06:12 3 right?

14:06:13 4 A. Correct.

14:06:13 5 Q. But nevertheless, at some point they came together.

14:06:18 6 A. Yes.

14:06:18 7 Q. And I heard you say that you got the leather pouch  
14:06:21 8 from the car as opposed to the library of your house or any  
14:06:25 9 other place in the house or do you know?

14:06:27 10 A. From the car.

14:06:28 11 Q. Where in the truck, front seat, back seat, what would  
14:06:34 12 you call that, truck bed?

14:06:35 13 A. Like, just around, it was a lot of stuff. I don't  
14:06:40 14 recall exactly where I pulled it from.

14:06:44 15 Q. Was it sitting on top of the stuff, was it underneath  
14:06:48 16 the stuff, where was it?

14:06:51 17 A. I don't recall.

14:06:52 18 Q. And so the next thing that I understand is you, I  
14:06:57 19 think the phrase that either Mr. Wise used or you used, "you  
14:07:04 20 panicked" about finding the gun, certainly understandable?

14:07:07 21 A. Yes.

14:07:07 22 Q. But your reaction was to go put it in a bag, a gift  
14:07:11 23 bag, is that right, not a gift bag, but to put it in a bag?

14:07:15 24 A. I didn't want to hold it like a gun.

14:07:17 25 Q. And you had no idea if it was loaded at the time?

Hallie Biden - cross

14:07:19 1 A. Correct.

14:07:20 2 Q. But you did see a box of bullets that were next to  
14:07:23 3 it?

14:07:23 4 A. Yes.

14:07:24 5 Q. And it had bullets in it?

14:07:25 6 A. I don't know.

14:07:26 7 Q. You didn't shake it, open it up?

14:07:28 8 A. The bullets?

14:07:29 9 Q. The box.

14:07:30 10 A. Some were out and I think it had some weight to it  
14:07:33 11 too.

14:07:33 12 Q. It had some weight. But did you open it to see  
14:07:36 13 whether they were all there, not all there, how did you  
14:07:39 14 know?

14:07:39 15 A. Some were loose out of the box.

14:07:42 16 Q. Did you scoop those up?

14:07:44 17 A. I did, I put those in there, as well.

14:07:46 18 Q. You put those in where, as well?

14:07:48 19 A. In the pouch.

14:07:49 20 Q. So there were some in the box and you thought there  
14:07:51 21 were some that were in the same steel underneath the console  
14:07:56 22 part?

14:07:56 23 A. In the console, there were some loose bullets that  
14:08:00 24 were just sitting there, and then next to it was the box  
14:08:04 25 that they came from.



Hallie Biden - cross

14:08:05 1 Q. So they had fallen out of the box?

14:08:07 2 A. Correct. But all of that, all of that, all into the  
14:08:12 3 pouch.

14:08:12 4 Q. They weren't in the gun, they were next to the box?

14:08:15 5 A. Correct.

14:08:16 6 Q. Now I understand. So now you take -- and the speed  
14:08:19 7 loader was there? I'm sorry, speed loader, there was a  
14:08:23 8 thing other than the box and the gun, right?

14:08:25 9 A. I don't know what that is.

14:08:26 10 Q. Was there another device, another object that you  
14:08:33 11 scooped out?

14:08:33 12 A. I--

14:08:33 13 Q. Whatever was there, you scooped out.

14:08:36 14 A. Whatever looked like it was gun related I put in the  
14:08:39 15 pouch.

14:08:39 16 Q. Okay. There was whatever -- strike that.

14:08:43 17 So in the sequence you take it out and put it  
14:08:47 18 either in the pouch in the bag, or the bag in the pouch, you  
14:08:50 19 can't figure out which came first?

14:08:52 20 A. Correct.

14:08:52 21 Q. But either way it gets into the bag?

14:08:55 22 A. Correct.

14:09:00 23 Q. And then you were asked whether or not, and you saw a  
14:09:02 24 text that there is a different pouch later at the very end  
14:09:05 25 of the month?

Hallie Biden - cross

14:09:06 1 A. Correct.

14:09:06 2 Q. You saw a text that says the pouch with Hunter in the  
14:09:11 3 library?

14:09:12 4 A. Right.

14:09:12 5 Q. In that pouch, lot of leather pouches?

14:09:16 6 A. Yes.

14:09:16 7 Q. There are a lot of leather pouches, you said you had  
14:09:20 8 leather pouches, sometimes in cars or sometimes where he  
14:09:23 9 would put his drugs?

14:09:24 10 A. Right.

14:09:24 11 Q. In that particular one, that you are texting him  
14:09:28 12 about on October 31st, we established that's not the pouch  
14:09:31 13 you threw away on October 23rd, when did that pouch get into  
14:09:35 14 your house?

14:09:36 15 A. I don't recall.

14:09:36 16 Q. Could it have been there for a while?

14:09:39 17 A. I mean --

14:09:40 18 Q. You just don't know when?

14:09:42 19 A. I don't know.

14:09:42 20 Q. And when you said inside of it was a -- I forget what  
14:09:53 21 you called it, a stem, a pipe or something?

14:09:55 22 A. Yes.

14:09:56 23 Q. Do you know when that was put into that pouch that  
14:09:58 24 you found in your house on the 31st?

14:10:00 25 A. I don't know.

Hallie Biden - cross

14:10:02 1 Q. Was it your intention to go to Janssen's that morning  
14:10:07 2 anyway?

14:10:07 3 A. Yes.

14:10:08 4 Q. And so when you first discovered the gun, in the time  
14:10:14 5 sequence that I'm trying to recreate with you given the  
14:10:17 6 phone calls and the texts, what we can establish is that you  
14:10:20 7 find it and immediately you call him on the phone, that  
14:10:23 8 didn't happen?

14:10:23 9 A. That didn't happen.

14:10:24 10 Q. You decided on your own to put it into the gift bag?  
14:10:29 11 He didn't tell you to do that?

14:10:30 12 A. No, he did not tell me to do that, he didn't know I  
14:10:34 13 was doing that.

14:10:34 14 Q. And so you decided on your own to put it in the  
14:10:38 15 pouch?

14:10:38 16 A. Correct.

14:10:39 17 Q. And then you decided on your own that you were going  
14:10:41 18 to take all that?

14:10:43 19 A. Correct.

14:10:43 20 Q. And drive it to the grocery store?

14:10:45 21 A. Yes.

14:10:46 22 Q. And so can I put up, please -- oh, wait.

14:10:55 23 MR. LOWELL: I move into evidence Defense  
14:11:01 24 Exhibit 22.

14:11:01 25 MR. WISE: No objection.

Hallie Biden - cross

14:11:02 1 THE COURT: Thank you. It's admitted.

14:11:04 2 (DTX Exhibit No. 22 was admitted into evidence.)

14:11:05 3 BY MR. LOWELL:

14:11:06 4 Q. Would you put it up on there? I'm showing you on the

14:11:09 5 screen, a picture of a store called Janssen's Market. Does

14:11:15 6 that fairly depict?

14:11:16 7 A. Yes.

14:11:17 8 Q. The Janssen's that you went to?

14:11:19 9 A. Yes.

14:11:19 10 Q. And I see in front there are -- there is at least one

14:11:23 11 trash can. Do you see that one?

14:11:25 12 A. Yes.

14:11:25 13 Q. And I take it there were others just like that down

14:11:27 14 the row?

14:11:28 15 A. Yes.

14:11:29 16 Q. Were they behind -- I'm sorry, in between each of

14:11:33 17 those columns?

14:11:34 18 A. Yes.

14:11:35 19 Q. Okay. But that's the kind of thing that you could

14:11:38 20 recall?

14:11:38 21 A. Yes.

14:11:39 22 Q. So we saw you pull up, and if you remember the

14:11:52 23 screen, I want to go backwards because colleagues with

14:11:55 24 better memories remind me of something. When you gathered

14:11:59 25 the things, was there also an iPhone box?

Hallie Biden - cross

14:12:02 1 A. I don't recall.

14:12:04 2 Q. Okay. Do you recall how many things fit into the  
14:12:08 3 pouch that has been put into evidence, which was like this  
14:12:11 4 big by that big? You don't?

14:12:14 5 A. I don't know. I mean, the pouch wasn't that big.

14:12:16 6 Q. I'm sorry, it wasn't that big?

14:12:18 7 A. But you have the pouch, so I don't know what would  
14:12:21 8 actually --

14:12:22 9 Q. Do you have the pouch?

14:12:27 10 A. They showed it to me.

14:12:29 11 Q. Yeah I know they showed it to you, but sometimes with  
14:12:33 12 a picture it's hard to get the dimensions.

14:12:44 13 MR. LOWELL: May I approach?

14:12:45 14 THE COURT: You may.

14:12:46 15 BY MR. LOWELL:

14:12:46 16 Q. So this has been entered into evidence as exhibit,  
14:12:49 17 government Exhibit 4. And you have identified this as the  
14:12:53 18 pouch?

14:12:53 19 A. Yes.

14:12:53 20 Q. So as you're looking at this, you're saying that in  
14:12:58 21 this, you put a gun?

14:13:00 22 A. Correct.

14:13:01 23 Q. A box of bullets?

14:13:02 24 A. Correct.

14:13:02 25 Q. Whatever else you found?

Hallie Biden - cross

14:13:05 1 A. Right.

14:13:05 2 Q. And you can't remember what else?

14:13:10 3 A. Correct.

14:13:12 4 Q. So if an iPhone box was recovered in the bag, that  
14:13:19 5 was thrown out by you and recovered by somebody else, do you  
14:13:22 6 have any memory of that box?

14:13:24 7 A. I don't recall the iPhone box.

14:13:27 8 Q. All right. So we -- you pulled up at 11:20 and you  
14:13:31 9 saw that. And by now, you definitely have found this. The  
14:13:36 10 video showed you throwing it out. And then leaving. I'm  
14:13:42 11 sorry, then going into the store. I think you were standing  
14:13:45 12 at, it might have been an ATM machine, that is what that  
14:13:49 13 was?

14:13:50 14 A. That's what it looked like.

14:13:51 15 Q. And then you got cash, I take it you got cash?

14:13:55 16 A. Uh-huh.

14:13:55 17 Q. And then you did or did not remember whether you went  
14:13:59 18 shopping?

14:13:59 19 A. I don't know if I did.

14:14:03 20 Q. At that point still you hadn't called Hunter, right?

14:14:07 21 A. Correct.

14:14:07 22 Q. And what we do know, is that later than when you  
14:14:11 23 arrived, that you arrived at 11:20, and then some minutes  
14:14:15 24 later, Hunter texts you. Can you put up the government  
14:14:24 25 Exhibit 18, and turn to Row 139. Row 139, please.

Hallie Biden - cross

14:14:40 1 And this is at 11:45, right?

14:14:44 2 A. Correct.

14:14:44 3 Q. So it's after you dropped it off before you return at  
14:14:48 4 11:52?

14:14:50 5 A. Correct.

14:14:50 6 Q. And he writes you, "did you take that from me,  
14:14:54 7 Hallie?" Is that how you say your name, Hallie?

14:14:57 8 A. Hallie.

14:14:58 9 Q. I'm sorry, I knew that. I listened to them and I got  
14:15:02 10 it wrong.

14:15:03 11 "Are you insane. Tell me now. This is no game.

14:15:07 12 And you're being totally irresponsible", that's when he  
14:15:12 13 first contacts you, is that right?

14:15:14 14 A. Yes.

14:15:14 15 Q. And then eight seconds or so later, he writes, "tell  
14:15:19 16 me now Hallie."

14:15:26 17 A. Yes.

14:15:26 18 Q. And then about 13 minutes later, he text you again?

14:15:31 19 A. Yes.

14:15:32 20 Q. Okay. But in between there was a phone call; right?

14:15:35 21 A. I don't recall.

14:15:36 22 Q. Okay. So if you'll look back to what was in front of  
14:15:41 23 you, and I had you stop at Row 71 at 10:30, will you look at  
14:15:48 24 Row 72 in the book, Exhibit 17. So it would be Row 72, it's  
14:15:58 25 page 3.

Hallie Biden - cross

14:16:07 1 A. Yes.

14:16:08 2 Q. When he calls you at 11:46, a minute after the text  
14:16:14 3 that we ended up at 11:45, right, so to do the sequence  
14:16:19 4 right, that's what happens next, he calls you?

14:16:21 5 A. Correct.

14:16:22 6 Q. You didn't call him, he calls you?

14:16:24 7 A. Correct.

14:16:25 8 Q. You speak for 1 minute and 56 seconds, almost two?

14:16:28 9 A. Correct.

14:16:28 10 Q. That's the conversation in which you do tell him that  
14:16:31 11 you found the gun; is that right?

14:16:34 12 A. Correct.

14:16:34 13 Q. And by now, you have left the store?

14:16:39 14 A. Yes.

14:16:40 15 Q. And gone back --

14:16:41 16 A. I don't recall.

14:16:42 17 Q. Okay. But you know you come back at 11:52, we know  
14:16:47 18 that you've dropped it off at 11:20, you certainly weren't  
14:16:52 19 there for the 32 minutes in between, right? You dropped it  
14:16:56 20 off and threw it out at 11:20, we have the video?

14:17:00 21 A. Correct.

14:17:00 22 Q. And then you left?

14:17:01 23 A. Right, but I don't know where I went.

14:17:03 24 Q. I know you don't -- I said home, I'm sorry. You left  
14:17:06 25 the store?



Hallie Biden - cross

14:17:07 1 A. Correct.

14:17:07 2 Q. And you came back later at 11:52, that's what the  
14:17:11 3 video showed? It's okay, it's in evidence.

14:17:15 4 A. Okay.

14:17:15 5 Q. What I'm trying to do is establish a timeline?

14:17:18 6 A. Okay.

14:17:18 7 Q. We know about, those are two bookmarks. We left, and  
14:17:22 8 that's when he text you and you told him for 1 minute 56  
14:17:26 9 what happened, right?

14:17:27 10 A. Yes.

14:17:28 11 Q. I think you testified that in that conversation he  
14:17:30 12 spoke to you and your understanding was he said among other  
14:17:33 13 things I'm sure, "go back and get it"?

14:17:37 14 A. Yes.

14:17:37 15 Q. You had already left, okay. Yes?

14:17:40 16 A. Yes.

14:17:41 17 Q. And then you go back; right?

14:17:44 18 A. Yes.

14:17:45 19 Q. And we saw the video. You can take that down for  
14:17:48 20 now, Mr. Radic. And you went back and you looked and we saw  
14:17:51 21 you looking and you didn't find it?

14:17:53 22 A. Yes.

14:17:53 23 Q. And then we saw you come back into your car and then  
14:17:56 24 you called him to tell him I didn't find it?

14:18:01 25 A. Yes.

Hallie Biden - cross

14:18:02 1 Q. If you look at Row 73. You see it says Row 73 at

14:18:11 2 11:53, you call him?

14:18:12 3 A. Yes.

14:18:13 4 Q. And it says 1:47?

14:18:16 5 A. Yes.

14:18:16 6 Q. So you spoke to him for 1 minute and 47 seconds after  
14:18:20 7 it is that you found that the gun was gone?

14:18:23 8 A. Right.

14:18:23 9 Q. That the bag was gone?

14:18:25 10 A. Yes.

14:18:25 11 Q. And I think you said in that conversation, he said to  
14:18:29 12 you, "go tell somebody", go tell or make, I think to use  
14:18:33 13 your phrase, a police report; right?

14:18:37 14 A. Right.

14:18:38 15 Q. So he asked you to do that?

14:18:39 16 A. Correct.

14:18:40 17 Q. Okay. So he wanted you to see what could be done to  
14:18:44 18 recover the gun?

14:18:45 19 A. Correct.

14:18:45 20 Q. That's when -- what happens next, do you go back into  
14:18:49 21 Janssen's?

14:18:50 22 A. Yes.

14:18:51 23 Q. Whom did you speak with there?

14:18:53 24 A. I forget her name.

14:18:55 25 Q. Somebody in the store?

Hallie Biden - cross

14:18:57 1 A. Yeah, in the back office I went. I think it's the  
14:19:01 2 owner's daughter.

14:19:02 3 Q. An office person?

14:19:03 4 A. Yes.

14:19:03 5 Q. And you told them what had happened?

14:19:06 6 A. Yes.

14:19:06 7 Q. Do you remember what you told them?

14:19:08 8 A. I told her what happened, because at first I think I  
14:19:12 9 was trying to see if they had any -- if you know, like did  
14:19:16 10 you guys take the trash out that quickly, and do you have  
14:19:20 11 some cameras that we could look at and then she was looking  
14:19:24 12 for that, and then we saw we couldn't figure it out, I said  
14:19:29 13 that Hunter told me to file a police report, and you know,  
14:19:35 14 she said let's -- do you want me -- you know, we did it  
14:19:38 15 together in her office.

14:19:39 16 Q. Meaning you called the police?

14:19:40 17 A. We called the police and had them come out and we  
14:19:43 18 filed a report on the missing gun.

14:19:45 19 Q. In terms of a minute by minute time sequence, you  
14:19:48 20 went in the office and you spoke to the person you just  
14:19:51 21 described?

14:19:51 22 A. Correct.

14:19:52 23 Q. Explained to her what happened, and then the two of  
14:19:55 24 you, as you recall it, I don't know if both of you can dial.

14:19:58 25 A. Yeah, she called on speaker, I was upset.

Hallie Biden - cross

14:20:01 1 Q. I'm sure. Who wouldn't be?

14:20:03 2 A. Right.

14:20:03 3 Q. So then you called the police, but she called on the  
14:20:06 4 speaker phone?

14:20:07 5 A. Correct.

14:20:07 6 Q. Did you talk to the police at that point or just she  
14:20:10 7 summoned them to come because there was an issue?

14:20:13 8 A. Yeah, can you come here, we want to file a police  
14:20:16 9 report, and yes.

14:20:16 10 Q. On that phone call do you recall her or you saying  
14:20:20 11 because I threw a gun out in a bag in the trash, or that  
14:20:23 12 didn't happen until they came?

14:20:25 13 A. I don't recall.

14:20:25 14 Q. So do you remember how much later that happened that  
14:20:29 15 they came?

14:20:30 16 A. I don't recall.

14:20:32 17 Q. But they did come?

14:20:33 18 A. Yes. I mean I sat there and waited.

14:20:36 19 Q. And then in that period of time, that would be, if  
14:20:40 20 you came back at 11:52, and he told you to please go in, and  
14:20:45 21 maybe he didn't use the word please, to go have this report  
14:20:49 22 done, then you have additional phone calls in this next  
14:20:52 23 period of time. You call him back at 11:59, if you'll look  
14:20:59 24 at Row 74?

14:21:00 25 A. Yes.

Hallie Biden - cross

14:21:01 1 Q. And that one is 3 minutes and -- 3 minutes and  
14:21:06 2 37 seconds. Do you got that?

14:21:08 3 A. Yes.

14:21:08 4 Q. Now, in the sequence, were the police there yet?

14:21:15 5 A. I don't know.

14:21:16 6 Q. And then the next one -- by the way, when you were  
14:21:19 7 calling him, you don't know where he is, I take it, or you  
14:21:23 8 do at this point?

14:21:23 9 A. He was at my house.

14:21:25 10 Q. At this hour, are you sure?

14:21:28 11 A. No, I don't, I don't know.

14:21:30 12 Q. Before lunch you indicated that you did know his  
14:21:33 13 intention was to drive to Washington D.C.?

14:21:35 14 A. Well, that's what the text said.

14:21:37 15 Q. Right.

14:21:38 16 A. Right.

14:21:39 17 Q. Okay. Was it your understanding when he texted that  
14:21:43 18 that could be a lie?

14:21:45 19 A. I don't recall.

14:21:46 20 Q. If you're at the store and you're calling him all  
14:21:48 21 these times, you don't know where he is, do you, he's not at  
14:21:52 22 your house at this period of time?

14:21:54 23 A. At one point he was at my house, because when I  
14:21:57 24 called -- when the police were there and I called and said  
14:22:00 25 they want you to come over, he came over.

Hallie Biden - cross

14:22:03 1 Q. 20 minutes later?

14:22:04 2 A. I don't know.

14:22:05 3 Q. Well, the report of the police will indicate how  
14:22:09 4 long?

14:22:09 5 A. Yeah.

14:22:09 6 Q. How far is your house from Janssen's?

14:22:12 7 A. Two minutes.

14:22:14 8 Q. So if when you called him and said that you need to  
14:22:17 9 come back, if he was at your house, unless he decided to  
14:22:22 10 delay for some period of time, that would have been two  
14:22:26 11 minutes?

14:22:26 12 A. If he left right away, yes.

14:22:29 13 Q. But again, you're not at the house to know where he  
14:22:32 14 was?

14:22:32 15 A. Correct.

14:22:33 16 Q. So now at the next period of time, 4 minutes later,  
14:22:38 17 at 10/23/18 at 12:06, you call him again?

14:22:43 18 A. Correct.

14:22:44 19 Q. That's 1 minute and 12, do you see that?

14:22:47 20 A. Yes.

14:22:47 21 Q. And then without going through it laboriously, the  
14:22:52 22 next four lines down the page are 12:14, 12:14, 12:15,  
14:22:58 23 12:18, 12:23, correct?

14:23:01 24 A. Correct.

14:23:01 25 Q. And you're calling him each of those occasions and on

Hallie Biden - cross

14:23:06 1 12:27, if you look at Row 82, now you're talking to him for  
14:23:12 2 four-and-a-half minutes; right?

14:23:14 3 A. Yes.

14:23:16 4 Q. And 15 minutes later, you call him and it's a 4  
14:23:22 5 minute phone call; right?

14:23:24 6 A. Correct.

14:23:25 7 Q. So if you had already told him that the police were  
14:23:29 8 there, or they want to speak to him, from the time that  
14:23:32 9 happened, we're now, I don't know, at least 30 minutes from  
14:23:38 10 that, if not more, and you keep calling him; right?

14:23:42 11 A. Right.

14:23:43 12 Q. Meaning he's not there yet?

14:23:45 13 A. Right. He didn't -- I didn't -- the police didn't  
14:23:48 14 ask him to until like three quarters of the way for him to  
14:23:52 15 come out there, so there was a lot of process.

14:23:55 16 Q. Okay. So what are these calls to him if you're still  
14:23:59 17 in the process, that is lasting as many minutes as they're  
14:24:03 18 lasting?

14:24:05 19 A. I don't recall.

14:24:05 20 Q. And then nevertheless, at some point he shows up and  
14:24:09 21 your memory is is it's some time after you were talking to  
14:24:14 22 the woman in the store and then the police came, sometime  
14:24:17 23 after that?

14:24:17 24 A. Correct.

14:24:17 25 Q. And you can't place that from these calls?

Hallie Biden - cross

14:24:20 1 A. Correct.

14:24:20 2 Q. And so the next thing that happens, the police show  
14:24:23 3 up, do you remember the names of the officers?

14:24:25 4 A. I don't.

14:24:26 5 Q. And did they talk to you?

14:24:29 6 A. Yes.

14:24:29 7 Q. Was the person from the store with you when you were  
14:24:32 8 being talked to?

14:24:32 9 A. Yes.

14:24:33 10 Q. Was it in the office?

14:24:34 11 A. In the office.

14:24:35 12 Q. Okay. So they asked you the questions they asked  
14:24:37 13 you?

14:24:38 14 A. Correct.

14:24:38 15 Q. In the office?

14:24:39 16 A. Correct.

14:24:40 17 Q. With that person? Okay. That's right so far, I have  
14:24:44 18 it right?

14:24:44 19 A. Yes.

14:24:44 20 Q. And then how long did that take?

14:24:47 21 A. A long time, well it felt long.

14:24:49 22 Q. Probably felt like an eternity.

14:24:52 23 A. Yeah.

14:24:52 24 Q. Just speaking here, you don't know --

14:24:54 25 A. I don't know.



Hallie Biden - cross

14:24:55 1 Q. Okay. And was it one officer, or two, or do you  
14:24:59 2 know?

14:24:59 3 A. Two.

14:25:00 4 Q. Was it two from the beginning, or one and then  
14:25:03 5 another person came?

14:25:04 6 A. I don't recall.

14:25:04 7 Q. But by the time it was done, there were two?

14:25:07 8 A. Yeah.

14:25:07 9 Q. Were both of them taking notes or just one?

14:25:10 10 A. I don't know who was taking notes.

14:25:11 11 Q. Or if either of them were?

14:25:14 12 A. Excuse me?

14:25:15 13 Q. Or if either of them were?

14:25:17 14 A. No, I don't recall note taking.

14:25:22 15 Q. In that period of time, we saw a text, and that text  
14:25:27 16 I think was the one where -- can you put up government  
14:25:33 17 Exhibit 18. Would you put up government Exhibit 18 and go  
14:25:50 18 to Row 145, please. If you look at 145, that is Row 145.  
14:25:54 19 No, not that one. I'm sorry. Sorry. You can pull that  
14:26:00 20 down.

14:26:01 21 Would you put up government Exhibit 18 and go to  
14:26:19 22 Row 144. And you have read this before. This is at 1:23  
14:26:24 23 and you're texting him.

14:26:27 24 A. Okay.

14:26:27 25 Q. So if you remember the call exchanges that I asked

Hallie Biden - cross

14:26:31 1 you about, they were 11:00, 11 and change, 12:00, all the  
14:26:35 2 way until I asked you whether or not there is one on page 3  
14:26:44 3 of the phone calls at 1:15. Do you see Row 58? Back on  
14:26:55 4 Exhibit 17, page 3, Row 58.

14:27:09 5 MR. WISE: Is that from the preceding day?

14:27:12 6 MR. LOWELL: I'm sorry, I screwed that up again,  
14:27:14 7 I'm back there. Thank you for pointing that out.

14:27:18 8 BY MR. LOWELL:

14:27:18 9 Q. Would you go to page 4, and look at Rows 84 and 85.

14:27:23 10 A. Yes.

14:27:24 11 Q. Do you see there is one at 12:55; correct?

14:27:28 12 A. Correct.

14:27:29 13 Q. And then one at 1:11.

14:27:32 14 A. Correct.

14:27:33 15 Q. The first one you call him, the second one he calls  
14:27:36 16 you; right?

14:27:38 17 A. Correct.

14:27:42 18 Q. In Row 84, you're calling him.

14:27:46 19 A. Yes.

14:27:46 20 Q. And in 85, he's calling you.

14:27:48 21 A. Yes.

14:27:49 22 Q. And that's 15 minutes apart?

14:27:53 23 A. Yes.

14:27:54 24 Q. Okay. But that last call is at 1:11 in the  
14:27:57 25 afternoon, right?

Hallie Biden - cross

14:27:58 1 A. Yes.

14:27:58 2 Q. And then this text, is your sending it to him ten  
14:28:04 3 minutes later, 11-12 minutes later, do you see that one?

14:28:08 4 A. Yes.

14:28:08 5 Q. "Police coming to talk to me now, I'll take full  
14:28:12 6 blame, I don't want to live like this anymore, this is too  
14:28:15 7 much for me to handle." You read that one before lunch.  
14:28:19 8 You said you will a take full blame, because "blame" as I  
14:28:21 9 understand it, you're the one who took the gun, put it in  
14:28:25 10 the pouch, put it in the bag, put it in the trash, threw it  
14:28:30 11 out, the gun is now missing, that's what you meant?

14:28:33 12 A. Yes.

14:28:34 13 Q. So we can at least know the police haven't arrived  
14:28:37 14 yet because they say they're coming?

14:28:39 15 A. Right.

14:28:47 16 Q. I'm sorry, I said that, now can you please go back to  
14:28:51 17 GX-18, and go to the right thereafter. And that's the one  
14:28:56 18 that you read in which Hunter says "the fucking FBI, it's  
14:29:02 19 hard to believe" et cetera, and then it says at the end,  
14:29:05 20 "who in their right mind would trust you to help them get  
14:29:12 21 sober", do you see that?

14:29:13 22 A. Yes.

14:29:15 23 Q. "Me get sober", sorry, starting to wear glasses, it's  
14:29:19 24 not working very well. It says help me get sober, correct?

14:29:23 25 A. Correct.

Hallie Biden - cross

14:29:24 1 Q. When he, in prior text, you sometimes use the word  
14:29:28 2 clean and sometimes the word sober, right?

14:29:30 3 A. Correct.

14:29:31 4 Q. And you testify that he's using alcohol in this  
14:29:34 5 period of time?

14:29:35 6 A. Yes. Yes.

14:29:36 7 Q. And so when he is saying to help me get sober, you  
14:29:41 8 have no way of knowing whether when he uses that word he's  
14:29:44 9 talking about alcohol, drugs, both, or whatever?

14:29:49 10 A. Correct.

14:29:50 11 Q. So now we've established that you got visited by the  
14:29:53 12 police, you have given a statement or you have talked to  
14:29:57 13 them and then Hunter shows up. Were you there when he  
14:30:01 14 showed up?

14:30:02 15 A. Yes.

14:30:02 16 Q. Did he come over to you and see how you were? Were  
14:30:07 17 you outside the office yet?

14:30:08 18 A. No, I was still in the office with the -- but the  
14:30:12 19 door, the back door was open, so he came up through the  
14:30:15 20 back.

14:30:16 21 Q. So he came through the back and he saw you?

14:30:18 22 A. Yes.

14:30:19 23 Q. Asked you how you were?

14:30:20 24 A. I don't recall if he asked.

14:30:21 25 Q. You don't know anything about what that exchange was?

Hallie Biden - cross

14:30:24 1 A. Yeah, I don't recall.

14:30:25 2 Q. And do you know then what happened next? Did then  
14:30:29 3 the police talk to him?

14:30:30 4 A. The police talked to him, they went back out.

14:30:32 5 Q. Together?

14:30:33 6 A. Together, he walked with the police and I stayed in  
14:30:36 7 there.

14:30:36 8 Q. And how long was he with the police, do you remember?

14:30:39 9 A. I don't recall.

14:30:41 10 Q. But eventually he was done talking to them?

14:30:44 11 A. Correct.

14:30:44 12 Q. And at that point, both of you left after that all  
14:30:49 13 occurred?

14:30:50 14 A. Yeah.

14:30:51 15 Q. Do you know how long that was between the time the  
14:30:54 16 police came and spoke to you and spoke to him and then you  
14:30:57 17 both left?

14:30:58 18 A. I don't recall.

14:30:58 19 Q. I know again it must feel like a week, but was it an  
14:31:03 20 hour, two hours?

14:31:05 21 A. I don't know.

14:31:05 22 Q. I understand. So then you went home?

14:31:08 23 A. I believe so.

14:31:09 24 Q. You don't remember where you went? I'm sorry, I  
14:31:12 25 didn't hear you?

Hallie Biden - cross

14:31:13 1 A. I believe so.

14:31:14 2 Q. No memory, this is a traumatic day and I'm not trying  
14:31:19 3 to test your blow by blow unless I could give you something  
14:31:23 4 that would help?

14:31:23 5 A. Right.

14:31:24 6 Q. Do you think you went home or do you think you went  
14:31:26 7 someplace else?

14:31:27 8 A. I mean, I would probably go home, but I just don't  
14:31:32 9 recall driving and getting home.

14:31:34 10 Q. Hunter didn't come back with you then?

14:31:36 11 A. I don't recall.

14:31:37 12 Q. So you don't know where he went? All right. So  
14:31:41 13 that's on the 23rd. And thereafter you guys started, poorly  
14:31:48 14 phrased, Hunter and you started to continue to talk or text  
14:31:54 15 or be communicating. Yes?

14:31:57 16 A. Yes.

14:31:57 17 Q. And when you talked to the police, did you explain to  
14:32:03 18 them, or did they ask you why it is that you were going into  
14:32:08 19 his vehicle, his truck?

14:32:11 20 A. I believe so, but I don't totally remember.

14:32:17 21 Q. Okay. And you would therefore not remember what you  
14:32:21 22 told them at the time?

14:32:22 23 A. I don't recall.

14:32:22 24 Q. Did you tell them that you went in looking for drugs?

14:32:26 25 A. I wouldn't have said that.

Hallie Biden - cross

14:32:27 1 Q. I'm refreshing your recollection. Did you tell them  
14:32:30 2 you were looking for any evidence that he was with another  
14:32:33 3 woman?

14:32:33 4 A. Maybe, but I don't recall.

14:32:34 5 Q. Again, ma'am, I'm sorry, I just need to make sure I  
14:32:38 6 do know what you recall and what you don't. On this issue,  
14:32:41 7 you don't recall?

14:32:42 8 A. I don't recall.

14:32:43 9 Q. I can show you if you'll look at the exhibit in front  
14:32:51 10 of you on the front of the book that's now put in front of  
14:32:56 11 the book, it was 16, that should be right in front. Let me  
14:33:00 12 make sure it's where I want it to be. Do you remember that  
14:33:04 13 text back and forth?

14:33:06 14 A. Yes.

14:33:07 15 Q. Take a look at that. Do you remember that then after  
14:33:10 16 the incident with the gun on the 23rd --

14:33:12 17 A. This is back to the 13th.

14:33:14 18 Q. I know, but I'm going to a different page.

14:33:17 19 A. What page?

14:33:19 20 Q. I'll get there, I'm going to try to do this the right  
14:33:23 21 way. I'm asking you if you remember after the 23rd you're  
14:33:26 22 in touch with him, by text or phone?

14:33:28 23 A. Likely, yes.

14:33:29 24 Q. But you don't know where he is on those days  
14:33:32 25 necessarily?

Hallie Biden - cross

14:33:32 1 A. I did not.

14:33:33 2 Q. Did you reach out for him to come back to your house,  
14:33:36 3 do you recall?

14:33:36 4 A. I don't recall.

14:33:37 5 Q. If you'll turn to Row 31 on that exhibit, just look  
14:33:43 6 down.

14:33:50 7 A. Yes.

14:33:54 8 Q. I think I'm right about the row, let me check. Yes,  
14:34:02 9 if you look at Row 31?

14:34:04 10 A. Yes.

14:34:04 11 Q. Look at that. And after you have read it to  
14:34:08 12 yourself, would you look up and tell me whether it refreshes  
14:34:11 13 your recollection as to whether or not you were reaching out  
14:34:14 14 to come back?

14:34:14 15 A. It doesn't recall a recollection.

14:34:16 16 Q. But again, in this period of time, you're texting  
14:34:19 17 him, right?

14:34:20 18 A. Correct.

14:34:20 19 Q. And you were texting him to the same place that this  
14:34:24 20 morning I asked you about?

14:34:25 21 A. Yes.

14:34:26 22 Q. I mean his phone from your phone?

14:34:28 23 A. Yes.

14:34:28 24 Q. And you knew that at the time you were writing what  
14:34:32 25 you were writing contemporaneously by texting him, this is



Hallie Biden - cross

14:34:36 1 not afterwards, this is at the time?

14:34:38 2 A. Correct.

14:34:41 3 MR. LOWELL: So with that I am going to ask to  
14:34:43 4 read that line as I earlier did on other texts.

14:34:48 5 MR. WISE: No objection, Your Honor.

14:34:49 6 THE COURT: Excuse me?

14:34:51 7 MR. WISE: No objection, Your Honor.

14:34:53 8 BY MR. LOWELL:

14:34:53 9 Q. On October 27th of 2018 at 10:27, you write, "don't  
14:34:58 10 come back to the house, obviously you have something in New  
14:35:01 11 York more important to you than me." Right? That's what  
14:35:06 12 that said?

14:35:07 13 A. That's what that said.

14:35:08 14 Q. So you were concerned that he was with somebody else?

14:35:12 15 A. That's what that says, yes.

14:35:13 16 Q. And that's on the 27th? How would you characterize  
14:35:18 17 at that point after the gun incident the nature of your  
14:35:21 18 relationship with him, more tense, less tense, back to  
14:35:25 19 normal?

14:35:26 20 A. More tense.

14:35:28 21 Q. Nevertheless, right after that, remember I asked you  
14:35:32 22 before lunch whether Hunter came back from California, and  
14:35:36 23 on that first day went with you to that facility that I  
14:35:39 24 called, or I think it's named Caron?

14:35:42 25 A. Yes.

Hallie Biden - cross

14:35:43 1 Q. I think that's C-A-R-O-N?

14:35:45 2 A. Correct.

14:35:46 3 Q. At that period of time when you were still, or he was  
14:35:49 4 doing check-ins or any rehabilitation, he went with you  
14:35:53 5 again?

14:35:53 6 A. I don't recall.

14:35:54 7 Q. Do you recall going to either an AA, AA means  
14:36:02 8 Alcoholics Anonymous, meeting later in the month right after  
14:36:04 9 this event?

14:36:04 10 A. I mean, I don't recall, but I was going every day.

14:36:09 11 Q. And do you remember at the end of the month, he went  
14:36:11 12 with you to one of them?

14:36:14 13 A. I don't recall exactly.

14:36:16 14 Q. Okay. Again, to see if it refreshes your  
14:36:23 15 recollection, if you'll look at Rows 39, 40, and 41. Take a  
14:36:34 16 look at that and tell me when you're done?

14:36:36 17 MR. WISE: There is no 41.

14:36:38 18 THE WITNESS: There is just 42.

14:36:39 19 BY MR. LOWELL:

14:36:40 20 Q. Oh, I'm sorry, yes, I'm sorry. I'm sorry, I did that  
14:36:44 21 wrong, I just thought they were sequential. 39, 40 and 42.  
14:36:50 22 Take a look and tell me when you have read that?

14:36:53 23 A. Yes.

14:36:53 24 Q. Does that refresh your recollection that you were at  
14:36:55 25 a facility, facility is a bad word, doing what you said you

Hallie Biden - cross

14:37:00 1 were going every day?

14:37:01 2 A. Yes.

14:37:01 3 Q. Does that refresh your recollection that he joined  
14:37:03 4 you there?

14:37:04 5 A. I mean, I don't recall all this, but that's what that  
14:37:07 6 says.

14:37:07 7 Q. If you don't recall it, that's fine, again, I'm just  
14:37:10 8 going to go through.

14:37:11 9 A. Yes.

14:37:11 10 Q. I'm sorry, this is the text you sent?

14:37:13 11 MR. WISE: I'm going to object, Your Honor, this  
14:37:16 12 doesn't actually reflect an AA meeting.

14:37:20 13 BY MR. LOWELL:

14:37:20 14 Q. Did he at the end of the month -- I?

14:37:23 15 MR. LOWELL: I withdraw the question and I'll do  
14:37:24 16 it again.

14:37:25 17 BY MR. LOWELL:

14:37:26 18 Q. You're not disputing with me that he would go with  
14:37:29 19 you to such a meeting at the end of the month?

14:37:30 20 A. I don't recall.

14:37:31 21 Q. One way or the other, no recall at all?

14:37:35 22 A. Right.

14:37:35 23 Q. There are some things you remember and many things  
14:37:37 24 you don't?

14:37:38 25 A. I don't recall him coming to an AA meeting with me.

Hallie Biden - cross

14:37:41 1 Q. And looking at this set of texts doesn't refresh your  
14:37:45 2 recollection about that?

14:37:45 3 A. It does not.

14:37:46 4 Q. Later in November, this is at the end of the month,  
14:37:49 5 you were shown some other texts, one of which he is telling  
14:37:53 6 you on the 3rd, looking at himself, he says "I'm a drunk,  
14:37:57 7 I'm an addict, I've ruined every relationship I have ever  
14:38:02 8 been in", you were asked questions about that, right?

14:38:04 9 A. Yes.

14:38:04 10 Q. When you go to an Alcoholics Anonymous meeting, is it  
14:38:08 11 typical for the meeting to start with saying "hi, I'm Hunter  
14:38:12 12 Biden, and I'm an alcoholic" or "I'm an addict"?

14:38:16 13 A. Yes.

14:38:17 14 Q. You understand, have you ever had to say that, not  
14:38:20 15 had to, do you ever say that?

14:38:21 16 A. Yes, I do.

14:38:22 17 Q. At the time you say that, that doesn't mean you're an  
14:38:25 18 addict other than in the sense that you're always an addict?

14:38:28 19 A. Correct.

14:38:29 20 Q. And then at some point at the beginning of November,  
14:38:32 21 you had a text where he said that and then you know that he  
14:38:35 22 then in November, after the gun incident, went to a  
14:38:38 23 different kind of treatment; correct?

14:38:41 24 A. Correct.

14:38:41 25 Q. In Massachusetts?

Hallie Biden - cross

14:38:42 1 A. Yes.

14:38:42 2 Q. And that was in November?

14:38:46 3 A. Yes.

14:38:47 4 Q. That was a month after the gun sale?

14:38:49 5 A. Yes.

14:38:49 6 Q. Weeks after the event with the police investigating  
14:38:54 7 and talking to him?

14:38:55 8 A. I don't know that.

14:38:57 9 Q. In November, you know it was in November?

14:39:00 10 A. What was in November?

14:39:01 11 Q. That he went to Massachusetts?

14:39:03 12 A. No, I thought you meant the police, and you said --

14:39:05 13 Q. The police talking to you on October 23rd?

14:39:08 14 A. Yeah, I'm sorry.

14:39:09 15 Q. I'm sorry, again, bad question. October 23rd and  
14:39:12 16 then weeks later he's up going to Massachusetts?

14:39:15 17 A. Yes.

14:39:15 18 Q. And indeed you drove him?

14:39:18 19 A. Yes.

14:39:18 20 Q. That you remember; right?

14:39:21 21 A. I do remember the drive.

14:39:23 22 Q. Okay. So he and you were still working together at  
14:39:27 23 least in terms of trying to help him?

14:39:28 24 A. Yes.

14:39:28 25 Q. And you do remember he was attending some meetings

Hallie Biden - cross

14:39:32 1 with you even if you can't say that's one of them?

14:39:34 2 A. Correct.

14:39:35 3 Q. You drove him up, right?

14:39:36 4 A. Yes.

14:39:36 5 Q. And then you didn't see him for a bit I take it after  
14:39:40 6 that?

14:39:41 7 A. Correct.

14:39:41 8 Q. So lastly, between October the 6th and October  
14:39:48 9 the 12th, you don't know that you ever saw him in that  
14:39:51 10 six-day period; right?

14:39:52 11 A. Correct.

14:39:52 12 Q. You don't know if he was drinking, using, or either  
14:39:56 13 of the above?

14:39:57 14 A. I don't know.

14:39:58 15 Q. And between the 12th and the 23rd, when the gun  
14:40:02 16 incident occurred, you did not see him do drugs or even  
14:40:05 17 alcohol in that period of time, did you?

14:40:07 18 A. Correct.

14:40:07 19 Q. And then afterward back in November is when he's  
14:40:11 20 checking himself back in to rehab in Massachusetts?

14:40:14 21 A. Yes.

14:40:15 22 MR. LOWELL: Sorry I took so long. That's all  
14:40:17 23 the questions I have.

14:40:19 24 THE COURT: Thank you.

14:40:19 25 Mr. Wise, redirect.

Hallie Biden - redirect

14:40:22 1 MR. WISE: Thank you, Your Honor.

14:40:23 2 REDIRECT EXAMINATION

14:40:25 3 BY MR. WISE:

14:40:35 4 Q. I just have a few questions, Ms. Biden. The first is  
14:40:39 5 were you married just this past weekend, recently?

14:40:42 6 A. Yes.

14:40:43 7 Q. And is your husband in the audience?

14:40:45 8 A. Yes.

14:40:46 9 Q. And at the breaks have you been looking at him and  
14:40:49 10 him looking at you?

14:40:50 11 A. Yes.

14:40:50 12 Q. Has any of that had anything to do with your -- the  
14:40:54 13 substance of your testimony?

14:40:55 14 A. No, just support.

14:40:57 15 Q. Now, Mr. Lowell asked you, he asked you about some  
14:41:01 16 phone records, I want to briefly touch on that. He asked  
14:41:04 17 you whether you had a call on the morning of the 23rd at  
14:41:08 18 9:51 with Mr. Biden, that he didn't answer, the defendant,  
14:41:13 19 that he didn't answer. Do you remember that, do you  
14:41:15 20 remember him asking that?

14:41:16 21 A. I'm getting awfully confused now with the phone calls  
14:41:20 22 and I don't have a picture in front of me.

14:41:22 23 THE COURT: Slow down.

14:41:24 24 BY MR. WISE:

14:41:24 25 Q. I think Mr. Lowell asked you, he had you look at some

Hallie Biden - redirect

14:41:27 1 phone records, which was Defense Exhibit 17, which I think  
14:41:30 2 is still -- in his book?

14:41:33 3 Yeah, it should be still up there.

14:41:35 4 A. Uh-huh. And the --

14:41:37 5 Q. Go to the first one in a second, but just to be  
14:41:41 6 clear, you saw the defendant, as you testified on direct,  
14:41:45 7 either late in the evening on the 22nd or in the middle of  
14:41:48 8 the night or that morning on the 23rd, right?

14:41:51 9 A. Yeah.

14:41:52 10 Q. And I think you used the phrase, if he came in in the  
14:41:55 11 middle of the night, came into bed in the middle of the  
14:41:59 12 night or the next morning, you put eyes on him?

14:42:02 13 A. Yes.

14:42:02 14 Q. That's when you testified that he looked exhausted,  
14:42:05 15 you weren't sure if he had been using drugs, right?

14:42:08 16 A. Correct.

14:42:08 17 Q. And that's why you went and searched the car; right?

14:42:11 18 A. Correct.

14:42:12 19 Q. Based on your observations of him?

14:42:14 20 A. Yes.

14:42:16 21 Q. At some point that morning, he left your house;  
14:42:20 22 right?

14:42:21 23 A. Yes.

14:42:21 24 Q. And you don't remember when?

14:42:23 25 A. Correct.



Hallie Biden - redirect

14:42:23 1 Q. And if you look at 17, defense 17 on page 3,  
14:42:29 2 Mr. Lowell asked you about a phone call. This is line 68.  
14:42:35 3 The earliest phone call in this string is 9:51 a.m., right?

14:42:40 4 A. Yes.

14:42:40 5 Q. So if you come in the middle of the night or early in  
14:42:43 6 the morning, this call would have been long after that,  
14:42:46 7 right?

14:42:47 8 MR. LOWELL: It depends on when in the early  
14:42:49 9 morning you're talking about, judge, right? Object to the  
14:42:51 10 way he characterizes it, he's leading her.

14:42:55 11 MR. WISE: I'm sorry, let me do that again.

14:42:57 12 MR. LOWELL: Objection, leading.

14:42:58 13 THE COURT: Okay. Do you want to ask it in an  
14:43:01 14 un-leading way?

14:43:02 15 MR. WISE: Sure.

14:43:03 16 BY MR. WISE:

14:43:03 17 Q. Did he come to your house?

14:43:05 18 A. Yes.

14:43:05 19 Q. Do you remember when?

14:43:08 20 A. I don't.

14:43:10 21 Q. Was it the middle of the night?

14:43:13 22 A. I don't know.

14:43:15 23 Q. Or the early morning?

14:43:16 24 A. Could have been the early morning.

14:43:18 25 Q. But you saw him at some point either middle of the

Hallie Biden - redirect

14:43:23 1 night or early morning?

14:43:24 2 A. Yeah.

14:43:25 3 MR. LOWELL: Objection, four times.

14:43:26 4 THE COURT: Did you -- ask it in an open ended  
14:43:30 5 way.

14:43:31 6 MR. LOWELL: That's the fourth time he's asked  
14:43:33 7 the same question.

14:43:33 8 THE COURT: I think he's trying.

14:43:35 9 MR. LOWELL: I understand, all right, just  
14:43:37 10 leading.

14:43:37 11 BY MR. WISE:

14:43:38 12 Q. Did you see him that morning?

14:43:39 13 A. Yes.

14:43:39 14 Q. At some point, you left, right?

14:43:42 15 A. Correct.

14:43:43 16 Q. And at some point he left?

14:43:45 17 A. Correct.

14:43:45 18 Q. And at some point you talked on the phone?

14:43:48 19 A. Correct.

14:43:49 20 Q. And the earliest phone call that Mr. Lowell asked you  
14:43:54 21 about was defense 17, line 68, was 9:51 a.m.; right?

14:44:01 22 A. Correct.

14:44:03 23 Q. That's not in the middle of the night, right?

14:44:06 24 A. Correct.

14:44:06 25 Q. And that's not early in the morning?

Hallie Biden - redirect

14:44:08 1 A. Correct.

14:44:08 2 Q. And then he asked you about some text messages, the  
14:44:11 3 first one was the one that referenced Uber, and this is  
14:44:17 4 defense 16. And the time, do you have that, 16? Defense  
14:44:29 5 16, it should be the one right before it.

14:44:41 6 A. At what time now?

14:44:43 7 Q. Line 20?

14:44:44 8 A. Yes.

14:44:44 9 Q. And that text he read into the record was even later,  
14:44:49 10 that's 10:23 a.m.; right?

14:44:51 11 A. Right.

14:44:52 12 Q. Again, not the middle of the night; right?

14:44:55 13 A. Right.

14:44:55 14 Q. Not early in the morning?

14:44:57 15 A. Correct.

14:44:58 16 Q. Now he asked you about AA meetings, right?

14:45:08 17 A. Yes.

14:45:08 18 Q. And he said when people go to these meetings, they  
14:45:12 19 introduce themselves and they say their name and they say  
14:45:15 20 I'm an addict; right?

14:45:18 21 A. Or an alcoholic, yes.

14:45:19 22 Q. Or an alcoholic. In your experience, why would they  
14:45:23 23 say that?

14:45:25 24 A. Because that's what you say -- I mean, because you  
14:45:32 25 believe that's what you are. But -- but I go to AA, which

Marley - direct

14:45:38 1 is alcoholics anonymous, even though, you know, my addiction  
14:45:43 2 was drugs. So I just like it better. So you can, you know,  
14:45:48 3 use it in all different ways.

14:45:50 4 Q. Sure. But you say it because you mean it, right?

14:45:55 5 A. Correct.

14:45:55 6 MR. WISE: Thank you. Nothing further.

14:45:57 7 THE COURT: All right. Thank you.

14:46:27 8 THE COURT: All right. What's next?

14:46:29 9 MR. HINES: Your Honor, the United States calls  
14:46:33 10 Joshua Marley.

14:46:36 11 COURTROOM DEPUTY: Please raise your right hand.  
14:46:41 12 Please state and spell your full name for the record.

14:46:45 13 THE WITNESS: Joshua Marley. J-O-S-H-U-A,  
14:46:55 14 M-A-R-L-E-Y.

14:46:56 15 JOSHUA MARLEY, having been duly sworn was  
14:47:00 16 examined and testified as follows:

14:47:04 17 DIRECT EXAMINATION

14:47:05 18 BY MR. HINES:

14:47:13 19 Q. Good afternoon, sir.

14:47:14 20 A. Good afternoon.

14:47:14 21 Q. What do you do for a living?

14:47:16 22 A. I'm a State Trooper for State of Delaware.

14:47:19 23 Q. How long have you been a State Trooper for the  
14:47:22 24 Delaware State Police?

14:47:23 25 A. Approximately 15 years.

Marley - direct

14:47:24 1 Q. And what is your current title?

14:47:26 2 A. I am a master corporal with uniformed patrol division  
14:47:31 3 troop 9.

14:47:32 4 Q. Can you describe for us your training and experience  
14:47:36 5 over the years?

14:47:36 6 A. Sure. The academy lasts six months, it's a live-in  
14:47:40 7 academy, it's three months to the road with a seasoned  
14:47:42 8 officer, and then ongoing education throughout the life span  
14:47:47 9 of the career.

14:47:48 10 Q. Are you familiar with Janssen's Market in the suburbs  
14:47:53 11 of Wilmington here?

14:47:54 12 A. Yes.

14:47:54 13 Q. Where is Janssen's Market located?

14:47:57 14 A. It's on Route 52 in Greenville.

14:48:00 15 Q. Do you get many calls to that location?

14:48:02 16 A. Rarely, Greenville is a pretty quiet neighborhood.

14:48:06 17 Q. Did you respond to an incident at Janssen's Market on  
14:48:09 18 October 23rd, 2018?

14:48:11 19 A. I did.

14:48:11 20 Q. Were you on patrol that day?

14:48:14 21 A. Correct.

14:48:14 22 Q. What was the incident you responded to on  
14:48:17 23 October 23rd, 2018?

14:48:18 24 A. A stolen handgun.

14:48:20 25 Q. Did you go to the Janssen's Market?

Marley - direct

14:48:22 1 A. Yes.

14:48:23 2 Q. What did do you when you arrived?

14:48:25 3 A. I viewed video in reference to the handgun being  
14:48:30 4 disposed of in a trash can on the east side of the exterior  
14:48:33 5 and then searched the trash cans.

14:48:37 6 Q. So had you been advised that a handgun was missing  
14:48:41 7 and was in a trash can?

14:48:42 8 A. Yes.

14:48:43 9 Q. Is that why you began looking at the video  
14:48:45 10 surveillance?

14:48:46 11 A. Yes.

14:48:46 12 Q. Ultimately, were you able -- did you take any steps  
14:48:50 13 to look for the handgun?

14:48:51 14 A. Yes, we emptied the trash cans.

14:48:53 15 Q. Around the exterior?

14:48:54 16 A. Yes, on the -- yeah.

14:48:56 17 Q. How long did that take?

14:48:58 18 A. Maybe 10 or 15 minutes.

14:49:01 19 Q. Were there any other officers there with you that  
14:49:05 20 day?

14:49:05 21 A. Yes, Sergeant Clemons.

14:49:06 22 Q. Did Hunter Biden arrive at the Janssen's Market at  
14:49:11 23 some point in time later that day?

14:49:13 24 A. Yes.

14:49:13 25 Q. Was he interviewed in your presence, and did you

Marley - direct

14:49:16 1 participate in an interview with him?

14:49:18 2 A. He was interviewed in my presence, I don't know if I  
14:49:21 3 participated much.

14:49:22 4 Q. How far away were you standing from him during the  
14:49:25 5 course of this interview?

14:49:26 6 A. If I recall correctly, just a couple of feet.

14:49:29 7 Q. Who else was with you?

14:49:30 8 A. Sergeant Clemons.

14:49:31 9 Q. Was Sergeant Clemons asking the questions and you  
14:49:34 10 were sort of recording the answers?

14:49:36 11 A. Correct.

14:49:36 12 Q. When you interviewed Hunter Biden, were you looking  
14:49:39 13 for the missing gun?

14:49:41 14 A. Yes, I think at that point, the gun, we couldn't find  
14:49:45 15 the gun in the trash can.

14:49:47 16 Q. Was it a voluntary interview in the sense that Hunter  
14:49:51 17 Biden was not under arrest, he was there, he was free to  
14:49:53 18 leave if he wanted to?

14:49:54 19 A. Correct, I believed he was the victim the entire  
14:49:57 20 time.

14:49:57 21 Q. Do you believe he was the victim because his handgun  
14:50:00 22 had been stolen, or was that at least the investigation at  
14:50:03 23 that time?

14:50:03 24 A. Yes.

14:50:04 25 Q. And is that how it was reported at least?

Marley - direct

14:50:06 1 A. Yes, that the gun was removed from his vehicle.

14:50:10 2 Q. Did Hunter Biden say anything about who owned the gun  
14:50:13 3 that was missing?

14:50:14 4 A. Yeah, he said he had purchased the gun on either the  
14:50:17 5 12th or the 13th from StarQuest Shooter.

14:50:20 6 Q. Hunter Biden had said he himself had purchased the  
14:50:23 7 gun?

14:50:24 8 A. Yes.

14:50:24 9 Q. Did he say anything about how he discovered the gun  
14:50:27 10 was missing?

14:50:28 11 A. I believe he just went into his vehicle and found it  
14:50:32 12 was missing from the center console.

14:50:34 13 Q. Did he say that?

14:50:34 14 A. I think so.

14:50:35 15 Q. Did you prepare a report?

14:50:36 16 A. Yes.

14:50:37 17 Q. Would that be reflected in your report, if he had  
14:50:42 18 said it?

14:50:42 19 A. Yes.

14:50:43 20 Q. Would it refresh your recollection to see that  
14:50:45 21 report?

14:50:45 22 A. Sure, yeah.

14:50:54 23 MR. HINES: May I approach, Your Honor?

14:50:56 24 THE COURT: You may.

14:51:03 25 BY MR. HINES:



Marley - direct

14:51:04 1 Q. Could you read that second sentence there, starting  
14:51:07 2 with that word?  
14:51:10 3 A. To be advised --  
14:51:12 4 Q. No, just read it to yourself?  
14:51:14 5 A. I'm sorry, okay.  
14:51:16 6 Q. Does that refresh your recollection as to whether or  
14:51:20 7 not Hunter Biden said where he had -- his gun had been?  
14:51:25 8 A. Yes.  
14:51:25 9 Q. What did he say?  
14:51:26 10 A. That it was missing from the center console of the  
14:51:28 11 vehicle.  
14:51:32 12 Q. He indicated where he had purchased the gun?  
14:51:37 13 A. Yes.  
14:51:37 14 Q. What was the location where he had purchased it?  
14:51:39 15 A. The StarQuest Shooters gun shop on Concord Pike.  
14:51:43 16 Q. What did you do next in the course of your  
14:51:46 17 investigation?  
14:51:46 18 A. I responded there to recover the serial number,  
14:51:48 19 because Mr. Biden was not sure of what that was.  
14:51:51 20 Q. Before you had left, had you asked Mr. Biden what the  
14:51:55 21 serial number was?  
14:51:55 22 A. I think Sergeant Clemons did.  
14:51:57 23 Q. Did he answer that he didn't know?  
14:51:59 24 A. That he didn't know.  
14:52:00 25 Q. Did he say anything about a case for the weapon?

Marley - cross

14:52:03 1 A. That I think in my report it says that he wasn't  
14:52:08 2 quite sure where the case was, and it wasn't with him at the  
14:52:10 3 time, it was important that we got that serial number and  
14:52:13 4 entered the gun as stolen in the NCIC in a timely fashion.

14:52:18 5 Q. Ultimately, did you go to StarQuest and confirm what  
14:52:21 6 that serial number was?

14:52:23 7 A. No.

14:52:23 8 Q. Did you write a report that day reflecting the events  
14:52:27 9 of that day?

14:52:27 10 A. Yes.

14:52:28 11 Q. And then is it your understanding that Lieutenant  
14:52:32 12 Millard Greer was assigned to follow-up on your report after  
14:52:35 13 October 23rd, 2018?

14:52:36 14 A. Correct.

14:52:41 15 MR. HINES: No further questions.

14:52:43 16 THE COURT: Mr. Lowell.

14:52:44 17 MR. LOWELL: Yes, ma'am.

14:52:46 18 CROSS-EXAMINATION

14:52:46 19 BY MR. LOWELL:

14:52:47 20 Q. Good afternoon.

14:52:48 21 A. Sir.

14:52:49 22 Q. My name is Abbe Lowell, I'm one of Mr. Biden's  
14:52:53 23 attorneys.

14:52:53 24 In the sequence of events, did you arrive at  
14:52:58 25 Janssen's first or did Sergeant Clemons?

Marley - cross

14:53:02 1 A. Sergeant Clemons.

14:53:03 2 Q. How soon after he arrived did you arrive?

14:53:06 3 A. I'm not sure.

14:53:08 4 Q. Momentarily or could it have been some minutes?

14:53:11 5 A. Probably some minutes.

14:53:12 6 Q. Was he already in the office of the store talking to

14:53:17 7 Ms. Biden when you arrived?

14:53:18 8 A. I'm not sure.

14:53:20 9 Q. Okay. But at some point did you also go into that

14:53:23 10 office? You said that you saw him, him being Mr. Clemons?

14:53:28 11 A. I spoke with Mr. Clemons, or Sergeant Clemons

14:53:32 12 outside, and I know I viewed the video, but I'm not sure if

14:53:35 13 I was ever in the office with anyone else at the same time.

14:53:38 14 Q. So if there is any part of the police report about

14:53:44 15 the questions asked, like the ones that Mr. Hines just asked

14:53:48 16 you about what Mr. Biden said, that's not in your earshot

14:53:53 17 because you're outside and it's Mr. Clemons doing this, is

14:53:58 18 that right?

14:53:58 19 A. Correct. I was outside by the loading docks.

14:54:01 20 Q. Right.

14:54:02 21 A. But if there was --

14:54:04 22 Q. Sorry go ahead?

14:54:05 23 A. If there was something inside, I probably wasn't

14:54:08 24 there.

14:54:08 25 Q. So anything that Ms. Biden said, you weren't there to

Marley - cross

14:54:13 1 hear?

14:54:13 2 A. Correct. I never -- I don't think I ever even saw  
14:54:16 3 Ms. Biden.

14:54:17 4 Q. And your arrival, did that come before, at the same  
14:54:21 5 time or after Hunter arrived?

14:54:23 6 A. I think I was there before.

14:54:25 7 Q. You're not sure?

14:54:26 8 A. I'm not sure.

14:54:28 9 Q. And you have no idea where he came from?

14:54:30 10 A. Like previous to the market?

14:54:32 11 Q. Right. Before the moment he arrives at Janssen's, do  
14:54:36 12 you know where he was?

14:54:37 13 A. No.

14:54:37 14 Q. Do you know how long it took to get him there?

14:54:40 15 A. No.

14:54:41 16 Q. At some point you said that I think you were seeking,  
14:54:44 17 of course, to get the serial number, to see if it was in the  
14:54:48 18 system?

14:54:48 19 A. Getting the serial number so we could enter it into  
14:54:52 20 the system as stolen.

14:54:53 21 Q. To enter it as stolen?

14:54:55 22 A. Correct, with it being stolen by, we didn't know who  
14:54:58 23 at that time, it was important to get it in as stolen before  
14:55:02 24 it could be used in a crime.

14:55:04 25 Q. Did you collaborate with Sergeant Clemons to write

Marley - cross

14:55:07 1 the police report that you were shown to refresh your  
14:55:11 2 recollection?

14:55:11 3 A. Collaborate as far as, I did my report and he also  
14:55:17 4 wrote his report on his own.

14:55:18 5 Q. Say that last part?

14:55:19 6 A. He also did a report.

14:55:20 7 Q. So if in the police report of that day at the bottom  
14:55:24 8 of the page it has the name Sergeant Clemons, does that mean  
14:55:27 9 what's on the page was his or it's something that you both  
14:55:32 10 would have collaborated about, but he wrote it?

14:55:35 11 A. I'm not --

14:55:37 12 Q. Do you still have -- did you give him that?

14:55:42 13 MR. LOWELL: May I approach?

14:55:43 14 THE COURT: You may.

14:55:44 15 MR. LOWELL: Thank you.

14:55:45 16 BY MR. LOWELL:

14:55:46 17 Q. You were shown this to refresh your recollection.  
14:55:48 18 Can you do that again for me? Just take a look at that,  
14:55:51 19 look down, I want you to see the bottom, I want you to see  
14:55:55 20 where there are names, and tell us whether or not that  
14:55:57 21 refreshes your recollection as to who is responsible for the  
14:55:59 22 words on a page?

14:56:00 23 A. So this one would be myself.

14:56:02 24 Q. This one, meaning the front page?

14:56:05 25 A. Correct.

Marley - cross

14:56:05 1 Q. Now if you'll turn to the second page.

14:56:09 2 A. Also myself.

14:56:11 3 Q. Okay. Third page?

14:56:12 4 A. Still myself.

14:56:13 5 Q. Now on the fourth page, if your report has again, as

14:56:17 6 I was asking, a name at the bottom, does that reflect what?

14:56:21 7 A. That would be Sergeant Clemons.

14:56:23 8 Q. That's not your writing, if he asked questions,

14:56:25 9 that's what is reflected in the report?

14:56:28 10 A. Right. So that would be his report.

14:56:31 11 Q. Okay. I understand. Did you review what he wrote?

14:56:35 12 A. No.

14:56:36 13 Q. And whether he wrote this, it's all typed up in a

14:56:39 14 nice form. That's not what was done on the scene, right?

14:56:43 15 A. No, this would be later.

14:56:44 16 Q. Later the day, later the next day, do you know when?

14:56:47 17 A. We have three days to complete a report. So I'm not

14:56:52 18 exactly sure.

14:56:53 19 Q. Okay. Before it becomes finalized, whatever that

14:56:57 20 means, do you read it? The report?

14:57:01 21 A. Before I submit it in for approval?

14:57:04 22 Q. Yes.

14:57:05 23 A. Yes, I read it.

14:57:06 24 Q. At the point at which you did that for this form, had

14:57:09 25 Mr. Clemons already put his part in?

Marley - cross

14:57:12 1 A. I don't know.

14:57:13 2 Q. But you see it in the report that it's a number of  
14:57:16 3 pages, some his and some yours?

14:57:18 4 A. Correct. So it would be two separate reports under  
14:57:22 5 the same number, so like a supplement.

14:57:24 6 Q. So part could happen one time, and then the next part  
14:57:28 7 happens another time, and at the end of the process it's one  
14:57:31 8 report which has all the parts in it?

14:57:33 9 A. Yes, if it's the same report number, yes, you could  
14:57:36 10 do supplements at any given time, you know, a day later, a  
14:57:40 11 month later if new evidence comes up or whatever.

14:57:43 12 Q. Got it. If there is something about what Ms. Biden  
14:57:46 13 said, you weren't in her earshot, but it would be in the  
14:57:50 14 report if Mr. Clemons took that interview?

14:57:52 15 A. I would imagine.

14:57:53 16 Q. Did you know, did you review what it was he wrote  
14:57:57 17 down that she said?

14:57:58 18 A. No.

14:57:58 19 Q. And you have never looked at that?

14:58:00 20 A. Not that I remember.

14:58:01 21 Q. And the next thing that happened is after you were  
14:58:05 22 there, Mr. Clemons was also the one, I'm going to use the  
14:58:09 23 word interview, but asked questions of Mr. Biden?

14:58:12 24 A. Yes.

14:58:13 25 Q. And I think you were outside, but were you in

Marley - cross

14:58:16 1 earshot, did you say?

14:58:17 2 A. Right, I think all three of us were outside.

14:58:20 3 Q. Mr. Biden, Mr. Clemons and yourself?

14:58:23 4 A. Yes.

14:58:24 5 Q. And Ms. Biden was not there?

14:58:25 6 A. Correct. I don't really ever recall even seeing  
14:58:29 7 here.

14:58:29 8 Q. So he's interviewing Mr. Biden, you're not doing  
14:58:34 9 that?

14:58:34 10 A. Yes.

14:58:34 11 Q. He would be responsible for putting down what you  
14:58:38 12 were refreshed as to what Mr. Biden said?

14:58:39 13 A. Yes.

14:58:40 14 Q. When you were doing that, you were refreshed that he  
14:58:43 15 admitted right away that he had been the one to buy the gun?

14:58:46 16 A. Yes.

14:58:46 17 Q. He told you where?

14:58:47 18 A. Correct.

14:58:48 19 Q. And he told you where he thought it was?

14:58:51 20 A. Yes.

14:58:51 21 Q. And then after that you were seeking the serial  
14:58:55 22 number?

14:58:55 23 A. Yes.

14:58:55 24 Q. He didn't know that by heart I take it, right?

14:58:59 25 A. Right.



Marley - cross

14:59:00 1 Q. At some point, was it you or Mr. Clemons asked him if  
14:59:04 2 he could go find the seal serial number for the box in which  
14:59:08 3 it came, did you do that?

14:59:09 4 A. I did not.

14:59:09 5 Q. That would have been Mr. Clemons?

14:59:11 6 A. Yes.

14:59:12 7 Q. Were you there when he left to do that, or do you  
14:59:14 8 know if he went to do that?

14:59:15 9 A. I don't know. I think I had left pretty quickly to  
14:59:19 10 go try and attempt to get it on my own.

14:59:21 11 Q. So you went to StarQuest and you don't know whether,  
14:59:25 12 or when Mr. Biden went wherever he went?

14:59:27 13 A. Right, I don't think I returned back to Janssen's.

14:59:31 14 Q. That was what I wanted to know if you went back, you  
14:59:34 15 didn't?

14:59:34 16 A. No.

14:59:35 17 Q. You went to StarQuest?

14:59:36 18 A. Uh-huh.

14:59:36 19 Q. And when you went to StarQuest, you asked them if  
14:59:39 20 they had a record for the sale?

14:59:40 21 A. Yes.

14:59:40 22 Q. And did you -- did they or did they just give you the  
14:59:44 23 serial number which is what you were looking for?

14:59:47 24 A. I'm not sure if they gave me a register receipt or  
14:59:50 25 they read it off the computer terminal and I copied it and

Marley - cross

14:59:54 1 made the phone call and put it in NCIC.

14:59:57 2 Q. Oh the report you made, there is no copy on of what

15:00:01 3 StarQuest gave you that day if they gave you anything?

15:00:03 4 A. Okay.

15:00:04 5 Q. I'm asking?

15:00:05 6 A. Oh, yeah, if it's not.

15:00:06 7 Q. If it's not there, it's not part of the report?

15:00:09 8 A. Right.

15:00:09 9 Q. You might have just asked for the serial number?

15:00:12 10 A. Yes.

15:00:12 11 Q. You didn't ask for an ATF Form 4473 on that day?

15:00:17 12 A. No.

15:00:17 13 Q. You just wanted the serial number?

15:00:19 14 A. Exactly.

15:00:19 15 Q. Were you involved after that, in getting the people  
15:00:22 16 at StarQuest to send you the actual form that was filled out  
15:00:25 17 by the gun buyer?

15:00:26 18 A. No.

15:00:27 19 Q. And then after you did that, after you went to  
15:00:31 20 StarQuest you didn't go back, then your role in this would  
15:00:35 21 then after, to then write your report?

15:00:36 22 A. That was it.

15:00:37 23 Q. And in that report, and in your dealings with  
15:00:41 24 Mr. Biden, I think you said that he was listed as the victim  
15:00:44 25 of a crime?

15:00:45 1 A. Yes.

15:00:45 2 Q. When you were there, did you hear him express  
15:00:48 3 concerns about whether you were going to charge Ms. Biden?

15:00:51 4 A. I don't remember.

15:00:52 5 Q. But you called him a victim?

15:00:54 6 A. Right.

15:00:55 7 MR. LOWELL: That's all the questions I have.

15:00:57 8 THE COURT: All right. Redirect.

15:01:01 9 MR. HINES: Just briefly

15:01:02 10 REDIRECT EXAMINATION

15:01:02 11 BY MR. HINES:

15:01:03 12 Q. There were a lot of questions about the reports and  
15:01:05 13 who wrote them. Corporal, just to be clear, the bottom of  
15:01:10 14 the report clearly reflects who wrote the report, right?

15:01:13 15 A. Yes.

15:01:13 16 Q. And you wrote the first report in the sequence and  
15:01:17 17 had nothing to do with the second report that Sergeant  
15:01:20 18 Clemons wrote, right?

15:01:21 19 A. Correct.

15:01:21 20 MR. HINES: No further questions.

15:01:22 21 THE COURT: Thank you. Thank you, sir. You're  
15:01:25 22 excused.

15:01:26 23 Okay. Should we take our afternoon break?

15:01:29 24 MR. HINES: That would be fine, Your Honor.

15:01:31 25 Thank you.

Greer - direct

15:01:31 1 THE COURT: Let's take our afternoon break.

15:01:32 2 We'll come back in fifteen minutes.

15:01:34 3 COURTROOM DEPUTY: All rise.

15:01:36 4 (Jury exiting the courtroom at 3:01 p.m.)

15:02:06 5 THE COURT: All right. Anything we need to talk  
15:02:10 6 about?

15:02:11 7 MR. HINES: No, Your Honor.

15:14:12 8 (A brief recess was taken.)

15:23:19 9 COURTROOM DEPUTY: All rise.

15:23:20 10 THE COURT: All right. Bring in the jury.

15:23:28 11 (Jury entering the courtroom at 3:23 p.m.)

15:23:36 12 THE COURT: All right. Everyone, welcome back.

15:23:57 13 Everyone else may be seated. Mr. Hines, what's next?

15:23:59 14 MR. HINES: The United States calls Millard  
15:24:02 15 Greer.

15:24:04 16 COURTROOM DEPUTY: Please raise your right hand.  
15:24:07 17 Please state and spell your full name for the record.

15:24:11 18 THE WITNESS: Millard, M-I-L-L-A-R-D, middle  
15:24:23 19 initial A, Greer, G-R-E-E-R.

15:24:26 20 MILLARD GREER, having been duly sworn, was  
15:24:31 21 examined and testified as follows:

15:24:33 22 DIRECT EXAMINATION

15:24:34 23 BY MR. HINES:

15:24:38 24 Q. Good afternoon, sir.

15:24:39 25 A. Good afternoon.

Greer - direct

15:24:40 1 Q. Are you currently employed?

15:24:42 2 A. Yes.

15:24:42 3 Q. How are you currently employed?

15:24:44 4 A. I'm a special investigator for the Delaware  
15:24:48 5 Department of Justice.

15:24:48 6 Q. How long have been a special investigator for the  
15:24:51 7 Delaware Department of Justice?

15:24:53 8 A. Just shy of three years.

15:24:55 9 Q. What did you do prior to that?

15:24:56 10 A. I worked for the Delaware State Police.

15:24:58 11 Q. In what capacity?

15:25:00 12 A. At retirement, I was a Lieutenant in the criminal  
15:25:03 13 investigation unit for New Castle County.

15:25:04 14 Q. How long were you a Delaware State Police Officer?

15:25:07 15 A. Just shy of 25 years.

15:25:09 16 Q. So Lieutenant was your last rank?

15:25:12 17 A. Yes.

15:25:12 18 Q. And what was your rank in 2018?

15:25:15 19 A. Lieutenant.

15:25:16 20 Q. I would like to direct your attention to October of  
15:25:19 21 2018. Were a signed to do follow-up investigative work  
15:25:23 22 regarding an incident at Janssen's Market?

15:25:26 23 A. Yes.

15:25:26 24 Q. Who assigned you to that incident?

15:25:28 25 A. My lead supervisor at the time was Captain Pete

Greer - direct

15:25:33 1 Sawyer.

15:25:33 2 Q. When were you assigned to do investigative work?

15:25:36 3 A. I believe that was the afternoon, evening of October  
15:25:42 4 the 25th, 2018.

15:25:43 5 Q. In connection with that follow-up investigation --

15:25:48 6 A. 24th, I believe that was the 24th.

15:25:50 7 Q. So October 24th is your recollection?

15:25:52 8 A. I believe -- is that a Thursday?

15:25:58 9 Q. October 24th, 2018, is that what you believe the day  
15:26:02 10 was?

15:26:02 11 A. Yeah. Yes.

15:26:03 12 Q. Did you review video footage in connection with your  
15:26:08 13 follow-up investigation?

15:26:08 14 A. The following day, yes, the 25th I believe. Friday.  
15:26:14 15 I was assigned on a Thursday, on Friday I looked at the  
15:26:17 16 video.

15:26:17 17 Q. Tell us what steps you took to get that video footage  
15:26:21 18 and what it showed and what you did with it?

15:26:24 19 A. I responded up to Janssen's Market, initially I met  
15:26:29 20 with Paul Janssen and reviewed the interior video footage.  
15:26:35 21 I then met with the owner of the security company,  
15:26:40 22 Addlestone Security, and went to a security room, and viewed  
15:26:45 23 the video footage on their system.

15:26:48 24 Mr. -- the owner of that company then gave me a  
15:26:54 25 U.S. B that contained all the video footage as did Ms.

Greer - direct

15:26:59 1 Janssen. I went back to my office and reviewed it  
15:27:03 2 extensively over the next few days.

15:27:05 3 Q. Did some of those video show Hallie Biden arriving at  
15:27:10 4 Janssen's Market, walking through Janssen's Market and  
15:27:12 5 leaving Janssen's Market?

15:27:13 6 A. It did.

15:27:14 7 Q. The jury has already seen those. Was there an  
15:27:18 8 additional video that was of significance to the  
15:27:20 9 investigation?

15:27:22 10 A. Yes.

15:27:23 11 Q. And what did that additional video show?

15:27:26 12 A. There is exterior video that shows the -- an elderly  
15:27:36 13 gentleman park a vehicle at the far end of the parking lot  
15:27:40 14 and then begin to look through trash cans at the market.

15:27:47 15 Q. And is that -- I'm going to show you in a moment, in  
15:27:51 16 advance of your testimony today, did you look at  
15:27:53 17 Government's Exhibit 39C, and review that video footage?

15:27:57 18 A. I did.

15:27:58 19 MR. HINES: With the Court's permission, I would  
15:28:00 20 like to admit that exhibit and play it.

15:28:02 21 MR. LOWELL: Without objection.

15:28:03 22 THE COURT: All right. Thank you. It's  
15:28:04 23 admitted.

15:28:05 24 (Exhibit No. 39C was admitted into evidence.)

15:28:07 25 MR. HINES: Would you please play 39C, Ms. Vo.

Greer - direct

15:28:13 1 (Video played.)

15:28:16 2 BY MR. HINES:

15:28:16 3 Q. Does the video show the man that is approaching the  
15:28:20 4 exterior trash can that you described a moment ago?

15:28:22 5 A. It does.

15:28:22 6 Q. Does it get cut off because there is sort of an  
15:28:26 7 awning?

15:28:26 8 A. It does.

15:28:27 9 Q. Right here. So the angle only shows kind of the  
15:28:30 10 right side of the trash can?

15:28:32 11 A. Correct. He's currently at a trash can that's not  
15:28:35 12 related to why we're here. But he eventually makes his way  
15:28:41 13 down.

15:28:41 14 Q. All right. So now at this time in the video, are we  
15:28:46 15 seeing the man walk down to the trash can that is related to  
15:28:49 16 this investigation?

15:28:50 17 A. Yes.

15:28:50 18 Q. Or in the vicinity of it?

15:28:53 19 A. Yes.

15:28:54 20 Q. Do you see him kind of bending over a head right  
15:28:57 21 there, is that right?

15:28:58 22 MR. LOWELL: I'm sorry, can you say that again?

15:29:01 23 BY MR. HINES:

15:29:01 24 Q. Do you see a head right above the trash can that was  
15:29:04 25 just bent over there a moment ago?



Greer - direct

15:29:06 1 A. Yes. To be honest I can't tell that it's a head, I  
15:29:10 2 can tell that there is movement at that trash can.

15:29:13 3 Q. All right. So did you take any steps to try and  
15:29:17 4 ascertain the identity of that man, that individual that  
15:29:21 5 just walked toward that trash can?

15:29:23 6 A. I did.

15:29:23 7 Q. What steps did you try to take to ascertain his  
15:29:27 8 identity?

15:29:27 9 A. Interviewed a number of people at Janssen's Market  
15:29:30 10 and at the Greenville Shopping Center and Greenville Center  
15:29:35 11 Shopping Center next door, I think it's called. There were  
15:29:37 12 a lot of people familiar with, there was an elderly  
15:29:41 13 gentleman that would routinely come and rummage the trash  
15:29:44 14 cans for recyclables. I eventually spoke to a maintenance  
15:29:49 15 worker who had a first name of Ed for this subject.  
15:29:53 16 However, that's all he could provide, he couldn't provide  
15:29:56 17 any further name information or vehicle or anything of that  
15:30:00 18 nature.

15:30:01 19 He did point me toward the Fidelity Investments  
15:30:09 20 Office.

15:30:09 21 Q. I didn't mean to cut you off, at some point in time  
15:30:13 22 based on that information it was someone named Ed and the  
15:30:16 23 location he was frequenting, did you begin to do some  
15:30:19 24 surveillance to try to see this man looking for recyclables?

15:30:23 25 A. I did, I did multiple days of surveillance.

Greer - direct

15:30:28 1 Eventually I did see him rummaging through trash cans. I  
15:30:35 2 actually received a phone call and was told that he was in  
15:30:38 3 the area while I was there, so I was able to locate him.

15:30:43 4 I then watched him over the period of the next  
15:30:47 5 15 minutes, I believe. And then he approached a car, I  
15:30:50 6 believe it was a Chevy Equinox, that was parked over near  
15:30:54 7 Janssen's Market. At that time I approached him. I  
15:30:57 8 identified myself as a Delaware State Trooper, and advised  
15:31:02 9 him that I was there because somebody had placed something  
15:31:05 10 in a trash can that shouldn't have been there. His  
15:31:08 11 immediate response was yes, they did.

15:31:10 12 I then asked him what might that be, he said a  
15:31:15 13 .38 Special. I then advised him that I immediately needed  
15:31:19 14 that weapon, he says it's at my house. I then took his ID  
15:31:25 15 to make sure he didn't have any active warrants. He  
15:31:29 16 explained that he was a Navy veteran. He was retired from  
15:31:33 17 --

15:31:33 18 MR. LOWELL: Objection, I was allowing the  
15:31:35 19 context, now it's getting --

15:31:38 20 MR. HINES: I'll move you forward a little bit,  
15:31:41 21 Lieutenant Greer. So after he indicated that he did have a  
15:31:47 22 .38 Special, did he ultimately take you, with his consent,  
15:31:50 23 to his residence to locate that firearm.

15:31:54 24 THE WITNESS: He did. Yes.

15:31:56 25 BY MR. HINES:

Greer - direct

15:31:56 1 Q. And you went there and did you retrieve any items?

15:32:01 2 A. Yes. We responded to [REDACTED] in  
15:32:06 3 Wilmington, Delaware, and he retrieved a black box from an  
15:32:12 4 upstairs room, brought it down the steps, and presented it  
15:32:17 5 to me. He didn't present the box to me, he was holding it,  
15:32:21 6 it had a number of socks in it. He pulled a gun out of one  
15:32:24 7 of the socks and handed it to me and it was a .38 Special.  
15:32:29 8 Ultimately I was able to confirm the serial number of that  
15:32:32 9 gun matched the serial number on the stolen -- theft of  
15:32:36 10 firearm report taken by Trooper Marley.

15:32:39 11 Q. And in that box, you said there was a .38 Special  
15:32:44 12 revolver. In advance of your testimony today, did you have  
15:32:46 13 a chance to look at Government's Exhibit 1?

15:32:50 14 A. Yes.

15:32:50 15 Q. And is this -- is Government's Exhibit 1 the .38  
15:32:54 16 Special revolver that Mr. Banner turned over to you?

15:32:57 17 A. Yes.

15:32:57 18 Q. Did you identify that based on the serial number  
15:33:00 19 there?

15:33:00 20 A. Yes.

15:33:00 21 Q. How did he present the revolver to you, it was in the  
15:33:04 22 sock you said?

15:33:04 23 A. It was in a sock, yes.

15:33:06 24 Q. And then in like a larger box?

15:33:08 25 A. Yeah, a larger black box that I would describe as a

Greer - direct

15:33:13 1 shoe, it was a larger shoebox as maybe some high top  
15:33:17 2 sneakers or boots came in it.

15:33:19 3 Q. Is there anything else that he indicated that he  
15:33:21 4 retrieved from the trash receptacle that day that he turned  
15:33:25 5 over to you?

15:33:26 6 A. Yes, he then handed me a leather pouch that contained  
15:33:30 7 a number of other items, I believe some -- a tube of chap  
15:33:38 8 stick, a speed loader, that holds bullets so you can load a  
15:33:44 9 revolver at one time. And a box of I believe it was Hornady  
15:33:54 10 38-caliber ammunition.

15:33:59 11 MR. HINES: May I approach, Your Honor?

15:34:00 12 THE COURT: You may.

15:34:01 13 BY MR. HINES:

15:34:02 14 Q. I'm showing you Government's Exhibit 4. Is this the  
15:34:05 15 leather pouch that you described?

15:34:07 16 A. Yes.

15:34:07 17 Q. And what is government Exhibit 3?

15:34:10 18 A. That's the speed loader.

15:34:12 19 Q. And I'm showing you Government's Exhibit 2, what is  
15:34:16 20 2?

15:34:16 21 A. That's the box of ammunition.

15:34:18 22 Q. How were these items presented to you?

15:34:21 23 A. As I recall, it was just kind of all cupped in his  
15:34:25 24 hand and kind of handed it all over, these items were kind  
15:34:29 25 of laying in the, cupped in the pouch.

Greer - direct

15:34:32 1 Q. So this pouch was like sort of folded open?

15:34:36 2 A. Yes. Yes. If I remember it's like a flap that goes  
15:34:40 3 over and has a pocket inside of it, I believe. And I think  
15:34:44 4 everything was just laying in the center and it was just  
15:34:46 5 opened.

15:34:47 6 Q. So kind, he kind of presented it to you like this,  
15:34:51 7 like altogether?

15:34:52 8 A. Yes.

15:34:53 9 Q. How many cartridges of ammunition were in the box  
15:34:59 10 when he presented it to you?

15:35:02 11 A. 23.

15:35:03 12 Q. So there were two missing from the 25 cartridge box?

15:35:07 13 A. Yes.

15:35:07 14 Q. Now, when you received those items, what did you do  
15:35:14 15 with them?

15:35:16 16 A. Well before I took it, I put latex gloves on, and I  
15:35:24 17 placed them in an evidence bag that I put in my -- it wasn't  
15:35:31 18 a patrol car, it was an administration car, put in my police  
15:35:36 19 car and drove back to Troop 2, where it was later packaged  
15:35:40 20 for storage for evidence.

15:35:42 21 Q. When you say packaged and stored as evidence, did it  
15:35:45 22 get placed in a Delaware State Police evidence vault?

15:35:48 23 A. It did.

15:35:49 24 Q. Is that where it remained for some period of time  
15:35:52 25 thereafter?

Greer - direct

15:35:53 1 A. Yes. I turned it all over to the evidence Sergeant,  
15:35:57 2 who placed it in the evidence area. All that took place at  
15:36:01 3 my office.

15:36:02 4 Q. Before putting these items in, did you do anything to  
15:36:06 5 examine the brown leather pouch closely, did you look at it  
15:36:13 6 very closely?

15:36:14 7 A. No.

15:36:15 8 Q. At that time, what was the report you were  
15:36:18 9 investigating?

15:36:19 10 A. Theft of a firearm.

15:36:22 11 Q. Did Mr. Banner indicate that all of these items, 1,  
15:36:27 12 2, 3, and 4 had all come from that exterior trash can?

15:36:32 13 A. He did.

15:36:35 14 Q. Now, at that point of your investigation having  
15:36:38 15 retrieved the missing items, did you reach out to the  
15:36:41 16 defendant, Robert Hunter Biden?

15:36:44 17 A. I did.

15:36:46 18 Q. And did you end up communicating with Mr. Biden by  
15:36:50 19 phone?

15:36:50 20 A. I did.

15:36:51 21 Q. Did Mr. Biden express anything about whether he  
15:36:54 22 wanted to participate further in any investigation?

15:36:58 23 A. He was the victim of a theft of a firearm, I advised  
15:37:04 24 him that I was calling to see if he sought any prosecution  
15:37:08 25 of the person who took that firearm and he did not.

Greer - direct

15:37:12 1 Q. Because Mr. Biden had declined further prosecution,  
15:37:17 2 did you take any additional investigative steps at that  
15:37:23 3 time?

15:37:23 4 A. Investigative steps, no.

15:37:26 5 Q. So did these items just get logged into evidence and  
15:37:32 6 remain there until a federal investigation was underway and  
15:37:37 7 agents retrieved these items for this case?

15:37:40 8 A. Yes. But I believe the firearm was probably sent  
15:37:43 9 down to the forensic firearms services unit lab for a test  
15:37:48 10 fire to -- for comparison to see if it came back for a match  
15:37:54 11 in anything, what's known as the NIBIN system, a system that  
15:37:59 12 identifies shell casings that has special markings so we  
15:38:03 13 test fire all guns that we recover.

15:38:06 14 Q. Was there any match in this case?

15:38:07 15 A. I was not advised of any matches.

15:38:10 16 Q. And there were two pieces of ammunition missing,  
15:38:13 17 there was nothing in the system that suggested that those  
15:38:16 18 had been linked to a known crime?

15:38:19 19 A. No, if they were, that unit would have composed a  
15:38:24 20 report and sent back to me and it would have been attached  
15:38:27 21 to my report, and to the best of my knowledge, I never heard  
15:38:31 22 anything back from them which indicates that it was not.

15:38:33 23 Q. Did Mr. Banner also turnover an additional firearm to  
15:38:37 24 you?

15:38:37 25 A. He did.

Greer - direct

15:38:38 1 Q. And what were the circumstances regarding that  
15:38:41 2 additional firearm?

15:38:42 3 A. Out of that same box he took out another sock and he  
15:38:46 4 says you may want this as well, or something to that effect,  
15:38:51 5 going on almost six years ago now. But he handed over a  
15:38:56 6 Sundance 25-caliber semiautomatic handgun, he advised that  
15:39:02 7 it had been given to him by a coworker when he worked at  
15:39:06 8 General Motors.

15:39:07 9 MR. LOWELL: I'm sorry, objection to the hearsay  
15:39:10 10 part of this, finish the sentence, finish that, but let's  
15:39:13 11 not --

15:39:16 12 THE COURT: So you can finish your sentence he  
15:39:18 13 said, it's just talking about what someone told you is  
15:39:23 14 different than saying what someone gave you or what you said  
15:39:26 15 to someone, or what you understood, that's okay, it's what  
15:39:31 16 they said.

15:39:31 17 MR. LOWELL: He should finish the thought  
15:39:33 18 because I interrupted him.

15:39:36 19 THE WITNESS: I thought he did finish it.

15:39:39 20 BY MR. HINES:

15:39:40 21 Q. Did you take that additional firearm?

15:39:42 22 A. I did.

15:39:44 23 Q. And why did you take it?

15:39:46 24 A. For the same reason, I mean those are some very  
15:39:49 25 suspicious circumstances there that we wanted to test fire



Greer - cross

15:39:53 1 that gun and make sure it wasn't related to another crime.

15:39:57 2 Q. You said at this time you were investigating a theft  
15:40:00 3 of a firearm, in this case, did investigators like you have  
15:40:05 4 any iCloud messages or anything like that of the defendants  
15:40:09 5 at that time?

15:40:09 6 A. No.

15:40:10 7 Q. This was in 2018, so had the defendant written a book  
15:40:16 8 at that time indicating any drug activity to your knowledge?

15:40:19 9 A. No. I'm not sure when he wrote the book. I wasn't  
15:40:23 10 aware of a book in 2018, I'm pretty sure.

15:40:27 11 Q. So based on the information known then, a separate  
15:40:30 12 investigation of the defendant was not opened at that time  
15:40:33 13 and at the state level, is that right?

15:40:36 14 A. No.

15:40:38 15 MR. HINES: No further questions, Your Honor.

15:40:39 16 THE COURT: All right. Thank you. Cross-exam.

15:40:43 17 CROSS-EXAMINATION

15:40:43 18 BY MR. LOWELL:

15:40:45 19 Q. Good afternoon, Lieutenant Greer. Is that in your  
15:40:48 20 Delaware DOJ, what is your rank?

15:40:51 21 A. I'm just an investigator there.

15:40:53 22 Q. So I'll call you detective if that's okay?

15:40:57 23 A. Millard would be just fine.

15:41:00 24 Q. My name is Abbe Lowell, I'm one of the attorneys that  
15:41:04 25 represents Hunter, okay?

Greer - cross

15:41:05 1 A. Good afternoon, sir.

15:41:06 2 Q. Good afternoon to you. You were asked some questions  
15:41:09 3 at the end, a few moments ago. At the time of this incident  
15:41:13 4 in 2018, I think you mentioned that it was being  
15:41:15 5 investigated because Hunter was deemed to be the victim of a  
15:41:20 6 gun theft; right?

15:41:21 7 A. Yes, sir.

15:41:22 8 Q. And that's what the report states, victim?

15:41:25 9 A. Yes.

15:41:25 10 Q. As I understand the sequence, when did you get  
15:41:31 11 assigned to try to do what was needed in your investigation,  
15:41:37 12 what day of October, can you recall that?

15:41:41 13 A. The day after Marley took his report.

15:41:45 14 Q. So if Marley took his report on the 23rd, that would  
15:41:48 15 make it the 24th?

15:41:49 16 A. Thank you, yes, the 24th.

15:41:50 17 Q. You're welcome.

15:41:51 18 And so you're assigned and then the point is to  
15:41:55 19 try to find the gun as I understand it?

15:41:57 20 A. Yes.

15:41:57 21 Q. And I think you said what you did, you went and  
15:42:01 22 looked at the -- to find if there was surveillance video,  
15:42:06 23 correct?

15:42:06 24 A. Yes. I was aware that there was surveillance video.

15:42:09 25 Q. So you were looking to get it to review it?

Greer - cross

15:42:12 1 A. Yes.

15:42:12 2 Q. And I think you said the first time you did that was  
15:42:15 3 where? Was it at the store or at the security place?

15:42:18 4 A. The first video I looked at was at the store, but  
15:42:22 5 that was only interior. There is two different systems, the  
15:42:26 6 interior and the exterior.

15:42:27 7 Q. Okay. So which one did you see first, the interior  
15:42:30 8 or the --

15:42:31 9 A. Interior.

15:42:32 10 Q. And anything of relevance did you see on the  
15:42:36 11 interior?

15:42:37 12 A. The reason I looked at the interior first is because  
15:42:44 13 -- I was told that there was a person of interest who had  
15:42:47 14 been seen carrying out something. I don't know if I'm  
15:42:52 15 getting into hearsay here or not.

15:42:54 16 Q. No, you're not saying -- oh, you were told. Were you  
15:42:57 17 looking to see if it was evidence of who either put it in  
15:43:00 18 the trash or took it out of the trash?

15:43:03 19 A. Yeah, I was looking to see someone walking out with  
15:43:06 20 something that was surrounded in some type of purple bag or  
15:43:10 21 paper or tissue or something. I can clear that up now if  
15:43:14 22 you let me.

15:43:14 23 Q. You can clear it up. You obviously knew something  
15:43:18 24 about a color being purple?

15:43:19 25 A. Yes, the owners of the security company thought that

Greer - cross

15:43:22 1 the bag that it was placed into the trash can looked purple  
15:43:26 2 to them.

15:43:27 3 Q. Okay. So you went -- you were looking at the  
15:43:30 4 interior to see if you could find such a thing?

15:43:34 5 A. Yes.

15:43:34 6 Q. And you didn't see that in the interior?

15:43:36 7 A. I saw the purple tissue that he was talking about.

15:43:40 8 Q. Oh, that turned out not to be --

15:43:42 9 A. Had nothing to do with this.

15:43:44 10 Q. Understand. The wrapping flowers?

15:43:47 11 A. Yes. They wrap every floral arrangement in purple  
15:43:52 12 tissue paper.

15:43:52 13 Q. Got it. So you looked at that, and then the exterior  
15:43:56 14 video was not there at that point or is it was?

15:43:59 15 A. Janssen's does not have access to the exterior video,  
15:44:04 16 only the security company does. So I moved from inside  
15:44:08 17 Janssen's Market, to an office that is in the rear of the  
15:44:11 18 shopping center down underneath kind of like, in a basement  
15:44:15 19 area where they had their Multiplex system set up for kind  
15:44:21 20 of a command center for the security video.

15:44:23 21 Q. And that's where you went?

15:44:24 22 A. That's where I went, yes.

15:44:26 23 Q. And that's where you saw the video?

15:44:28 24 A. The first time, yes.

15:44:29 25 Q. And then you got a USB?

Greer - cross

15:44:31 1 A. Yes.

15:44:31 2 Q. A thumb drive, right?

15:44:33 3 A. Yes.

15:44:33 4 Q. And you went back to your office to look at it and  
15:44:36 5 review it again?

15:44:37 6 A. Yes.

15:44:38 7 Q. And I think that's where you were shown the actual  
15:44:41 8 video. I would like to put that back -- a moment ago you  
15:44:46 9 were looking at it and identifying a video?

15:44:48 10 A. Yes.

15:44:49 11 Q. And that's government Exhibit 39C?

15:44:51 12 A. Yes.

15:44:52 13 Q. Would you put, Mr. Radic, 39C back up, please.

15:44:58 14 I want to run this again because of what  
15:45:01 15 Mr. Hines and you discussed. So in this video as it starts  
15:45:05 16 you'll see a man wearing a purple shirt. Stop there,  
15:45:10 17 Mr. Radic.

15:45:11 18 A. I think it's actually a blue jacket.

15:45:13 19 Q. Blue purple, okay. In that clip, that guy wasn't  
15:45:18 20 carrying a bag, at this point you saw him walking with  
15:45:21 21 nothing in his hand?

15:45:22 22 A. Yes.

15:45:23 23 Q. And then he goes into the interior, right?

15:45:26 24 A. Yes.

15:45:26 25 Q. And there is no camera of that?

Greer - cross

15:45:28 1 A. Unfortunately there is not.

15:45:30 2 Q. It would have made your job a lot easier than it was?

15:45:33 3 A. Yes.

15:45:34 4 Q. Keep going, Mr. Radic. Then I think you were asked,

15:45:38 5 and this same person seems to be the person who comes out.

15:45:41 6 And when that happens, Mr. Radic, will you freeze it.

15:45:45 7 Stop there. He's not carrying a bag in that

15:45:58 8 picture, is he?

15:46:00 9 A. He does not appear to be.

15:46:04 10 Q. Keep playing Mr. Radic. He'll put his arm down.

15:46:08 11 Right there, stop, so he's not carrying a bag?

15:46:10 12 A. No.

15:46:11 13 Q. Now you'll see him go to that interior again?

15:46:14 14 A. Yes.

15:46:15 15 Q. Keep playing it. And now he's gone. Stop there. So

15:46:18 16 you can't tell what he's doing there?

15:46:20 17 A. No.

15:46:20 18 Q. Keep going. And then right there. That's where

15:46:28 19 Mr. Hines asked you if that's -- do you see his head. But

15:46:33 20 you can't identify that as a head, can you?

15:46:36 21 A. I can't say it's a head. I seen motion in the area.

15:46:42 22 Q. You can see motion. It's not a picture of him, it's

15:46:45 23 not a shirt that you saw the color of. I just wanted to

15:46:49 24 identify what that was if you could and it doesn't look to

15:46:51 25 me --

Greer - cross

15:46:52 1 A. I think we're a little bit out of sequence here if  
15:46:55 2 you'll allow me to clarify, maybe.

15:46:57 3 Q. Yeah, I just said --

15:46:59 4 A. I viewed this video countless times. It wasn't until  
15:47:05 5 after I had encountered Mr. Banner and had the gun back and  
15:47:10 6 went back and reviewed it more, because at that point, I  
15:47:13 7 knew where he parked, how he walked up, and so prior to  
15:47:17 8 recovering the gun, I had no idea that the person in that  
15:47:22 9 blue jacket had anything, and I didn't notice that motion  
15:47:28 10 over the trash can at that time because I had a 32-minute  
15:47:34 11 window that I was looking at, not just -- I didn't notice  
15:47:41 12 that motion at the trash can until after.

15:47:43 13 Q. Right.

15:47:43 14 A. I had recovered the gun.

15:47:45 15 Q. I get it. I'm just trying to figure out whether that  
15:47:48 16 helps you determine that it was him at that moment with the  
15:47:51 17 motion because all you I see is a little round thing and you  
15:47:54 18 were asked whether or not that was the person's head and I  
15:47:56 19 think you said you can't identify it as a head?

15:47:59 20 A. I cannot.

15:47:59 21 Q. Can you finish the video. That was it? Okay. So in  
15:48:08 22 that video, you don't see him putting his hand in the trash?

15:48:13 23 A. No.

15:48:13 24 Q. And you didn't see him taking a bag out?

15:48:16 25 A. No.

Greer - cross

15:48:16 1 Q. And you don't see in what condition any bag came out;  
15:48:20 2 correct?

15:48:21 3 A. No.

15:48:21 4 Q. And you didn't see whether the bag was right side up  
15:48:24 5 or upside down?

15:48:25 6 A. No.

15:48:26 7 Q. And you don't know at that point what's in either the  
15:48:28 8 bag or anything in the bag?

15:48:30 9 A. No.

15:48:30 10 Q. And that was the end of your ability to identify what  
15:48:33 11 happened on the video?

15:48:36 12 A. Yes.

15:48:36 13 Q. As I understood it then you were doing your job and  
15:48:39 14 trying to figure out if anybody knew what had happened?

15:48:42 15 A. Yes.

15:48:42 16 Q. And somebody told you that there was a person who  
15:48:44 17 from time to time came and looked through the trash, did  
15:48:49 18 that person tell you what that person's understanding was of  
15:48:53 19 why the person went through trash?

15:48:56 20 A. There were -- it was -- it seemed to be common  
15:49:00 21 knowledge among the businesses there that this gentleman  
15:49:06 22 rummaged for recyclables.

15:49:08 23 Q. Okay. So somebody who picks up things and then tries  
15:49:11 24 to sell them --

15:49:14 25 A. Yes, it's unusual for the area. Greenville,



Greer - cross

15:49:18 1 Centerville, it's a very fluent area that's not a lot of  
15:49:24 2 people rummaging.

15:49:24 3 Q. You were told something about that and that was your  
15:49:27 4 lead?

15:49:27 5 A. Yes.

15:49:27 6 Q. After that you then tried to track down people who  
15:49:31 7 might identify the person who did this?

15:49:33 8 A. Yes.

15:49:33 9 Q. And you got a name, Ed, right?

15:49:35 10 A. Yes.

15:49:35 11 Q. And then at some point as I got the sequence, later,  
15:49:41 12 a couple of days later, somebody called you and told you  
15:49:44 13 that that person who was identified was back in the parking  
15:49:47 14 lot looking through trash, is that kind of right?

15:49:50 15 A. He was actually in an office when they called me.

15:49:54 16 Q. He, being the person who grabbed the material?

15:50:00 17 A. Ed was inside the Fidelity Investment Office at the  
15:50:04 18 time.

15:50:04 19 Q. He was inside. Now I get it, he was inside the  
15:50:07 20 offices of Fidelity doing something, not going through trash  
15:50:11 21 at that point?

15:50:12 22 A. Correct.

15:50:12 23 Q. That's when you confronted him in the office?

15:50:16 24 A. No.

15:50:17 25 Q. You waited for him to come out?

Greer - cross

15:50:18 1 A. I waited for him to come outside.

15:50:20 2 Q. And that's when you interviewed him?

15:50:22 3 A. No, I observed him for, close to an hour.

15:50:25 4 Q. In that hour after Fidelity, to the hour, was it  
15:50:29 5 after that amount of time that you saw him going through  
15:50:32 6 trash again?

15:50:33 7 A. Yes.

15:50:33 8 Q. So in that hour after Fidelity, before the trash,  
15:50:36 9 what was he doing, it's an hour, 60 minutes, what was  
15:50:41 10 happening in that 60 minutes?

15:50:42 11 A. So, I'm up there doing surveillance, I'm across the  
15:50:46 12 street, I get a call from somebody at Fidelity Investments  
15:50:51 13 saying hi, the subject you were looking for is here, I said  
15:50:54 14 thank you, and that was because they had refused to identify  
15:50:58 15 him, they knew who he was, but they wouldn't tell me his  
15:51:03 16 name before because he was a client, they agreed to call if  
15:51:05 17 he came back to the area and let me know he was in the area.  
15:51:08 18 As luck would have it, they did call and I was there, so I  
15:51:11 19 was able to see, they described his clothing, I was able to  
15:51:14 20 see him come out of the office. I then watched him for, I  
15:51:19 21 would have to look at my report to be sure, I think it was  
15:51:22 22 50 minutes, I think it was from 10:50 to 11 o'clock, I  
15:51:26 23 believe. Or 10:10 until 11 o'clock, 50 minutes. During  
15:51:32 24 that time, he went by each trash can in the two shopping  
15:51:39 25 centers and would literally lean over and dig through and I

Greer - cross

15:51:42 1 saw him pull out plastic and aluminum.

15:51:46 2 Q. I'm just trying to suggest, not suggest, I'm trying  
15:51:49 3 to ask, you said there was a period of time, 50, I'm just  
15:51:52 4 asking if you're observing him going through trash for that  
15:51:56 5 period of time?

15:51:57 6 A. Yes.

15:51:57 7 Q. Just in front of Janssen's?

15:51:59 8 A. No, no, he was doing both shopping centers.

15:52:01 9 Q. That's what I wanted to find out, it didn't seem like  
15:52:05 10 he could be looking at three trash cans at Janssen's for 50  
15:52:08 11 minutes.

15:52:09 12 A. No, I didn't count the number of trash cans that he  
15:52:11 13 went through, it was quite a few, it was two shopping  
15:52:14 14 centers.

15:52:14 15 Q. And then you saw him taking things out?

15:52:16 16 A. Yes.

15:52:16 17 Q. And that's when you went up to him?

15:52:18 18 A. I waited until he went to his car.

15:52:21 19 Q. Okay. So now he's at his car and then you asked him  
15:52:24 20 questions?

15:52:25 21 A. Yes.

15:52:25 22 Q. Did you introduce yourself?

15:52:27 23 A. Yes, his car was parked at Janssen's, pretty much  
15:52:31 24 where it was parked on that video.

15:52:32 25 Q. So you identified yourself?

Greer - cross

15:52:34 1 A. I did.

15:52:34 2 Q. And I think you explained what you said that you were  
15:52:37 3 looking for something that somebody threw out in the trash  
15:52:40 4 and should not have, or something like that?

15:52:42 5 A. Yes.

15:52:42 6 Q. And he agreed that that's what the case was; is that  
15:52:46 7 right?

15:52:46 8 A. Yes.

15:52:46 9 Q. At that point, did you ask or did he tell you what he  
15:52:50 10 was doing to have obtained that, did he tell you that's what  
15:52:54 11 I do, I go through trash cans?

15:52:56 12 A. Yes.

15:52:56 13 Q. And you asked him whether he found something and  
15:53:00 14 that's when he told you he had?

15:53:03 15 A. No, I didn't ask him if he found something, I said  
15:53:05 16 the reason I'm contacting you, the reason I'm here in the  
15:53:08 17 area and contacting you is because somebody placed something  
15:53:12 18 in a trash can here that they should not have placed here.

15:53:16 19 Q. And he said?

15:53:17 20 A. And he immediately said oh, yes, they did.

15:53:19 21 Q. When did you the discover that yes they did meant the  
15:53:23 22 gun, right then than or later?

15:53:25 23 A. Right then, I said what may that be.

15:53:27 24 Q. And then he identified that may be, to be a gun?

15:53:30 25 A. He said a .38 Special.

Greer - cross

15:53:33 1 Q. And at that point is when you ran, a check, a  
15:53:36 2 background on-- a check of any kind on him, you got his  
15:53:40 3 name?

15:53:40 4 A. I asked him for his license. And the typical police  
15:53:44 5 stuff, who are you, what's your date of birth, do you do  
15:53:48 6 business abroad, blah, blah, blah, and he was very  
15:53:52 7 cooperative.

15:53:52 8 Q. And then at that point, you ran the check and seen  
15:53:56 9 that he didn't have a criminal record or any outstanding  
15:53:59 10 warrants, is that what you were looking for?

15:54:01 11 A. Correct.

15:54:01 12 Q. At that point, did you tell him in words or in effect  
15:54:04 13 that it was not normal for law abiding citizens to place  
15:54:09 14 guns in trash cans and that such items were critical pieces  
15:54:12 15 of evidence related to the potential of serious crimes?

15:54:15 16 A. Yes, something of that nature.

15:54:17 17 Q. In words, I'm not quoting you directly. At that  
15:54:20 18 point his response was to apologize, right?

15:54:23 19 A. Yes.

15:54:24 20 Q. Now, at that point, did he indicate to you after you  
15:54:27 21 told him that, and apologized, and by the way, I have  
15:54:31 22 another gun in my house, did he say anything about that?

15:54:34 23 A. He didn't say anything about that.

15:54:35 24 Q. Then the two of you then, you asked him where he  
15:54:39 25 lived or you had his license and he said, he told you where

Greer - cross

15:54:42 1 it was?

15:54:42 2 A. Yeah --

15:54:43 3 Q. I'm sorry, I asked a bad question. He told you that  
15:54:47 4 the gun he had identified was at his house?

15:54:49 5 A. Yes, he did.

15:54:51 6 Q. And then the two of you went there?

15:54:53 7 A. We did, I held on to his license, he drove his car, I  
15:54:57 8 followed him over.

15:54:58 9 Q. And you get to the house, when you got to the house,  
15:55:02 10 he opened the door, and was there anybody else there at the  
15:55:09 11 time?

15:55:09 12 A. Well, he got to the house, he didn't have his key, he  
15:55:12 13 had locked himself out of the house.

15:55:15 14 Q. He knew how to find a gun but not necessarily a key.  
15:55:20 15 Okay. Keep going?

15:55:20 16 A. Yes. So we tried calling, his wife was home he said.  
15:55:27 17 There was no answer. So we ended up pounding on -- he was  
15:55:32 18 pounding on the door and side window, he was kind of  
15:55:35 19 panicking a little bit, but eventually she woke up and  
15:55:39 20 answered the door, yes.

15:55:40 21 Q. Okay. By the time you said you were there, and an  
15:55:43 22 hour had went by, that started at 11ish in the morning, you  
15:55:48 23 said --

15:55:48 24 A. Those times are all on my supplement.

15:55:51 25 Q. But you said that she eventually woke up, she had

Greer - cross

15:55:54 1 been sleeping?

15:55:54 2 A. Yes.

15:55:55 3 Q. In the middle of the day?

15:55:56 4 A. Yes.

15:55:57 5 Q. And she gets up and opens the door?

15:55:59 6 A. Yes.

15:55:59 7 Q. You did you talk to her?

15:56:03 8 A. At that moment, at that moment, no.

15:56:09 9 Q. Okay.

15:56:10 10 A. Things got a little weird at that moment.

15:56:13 11 Q. I would say so.

15:56:14 12 A. So weird in that he is now pounding on the door, his  
15:56:18 13 wife wakes up, opens the door, you both go in. It's a split  
15:56:25 14 level -- well there is a living room to the right, there is  
15:56:28 15 steps that go up as soon as you go in, and as soon as she  
15:56:32 16 finally opens, again he was kind of panicking that she  
15:56:35 17 wasn't opening the door. As soon as she opened the door, he  
15:56:39 18 goes running up the steps.

15:56:40 19 Q. He's started running up the steps?

15:56:42 20 A. Yes.

15:56:44 21 Q. You were still down --

15:56:45 22 A. At that point I was like whoa, whoa, whoa, we're  
15:56:48 23 dealing with guns here, hold on.

15:56:50 24 Q. Well no gun here at the moment, right?

15:56:52 25 A. No, I had a gun, too.

Greer - cross

15:56:54 1 Q. But not in a sock in his drawer?

15:56:57 2 A. No, no, I'm sorry.

15:56:59 3 Q. So he runs up and his spouse is still with you?

15:57:03 4 A. Yes.

15:57:04 5 Q. Do you run up after him at that point?

15:57:07 6 A. No. He stopped, I asked him to stop.

15:57:11 7 Q. You asked him to stop? Okay. He stopped?

15:57:13 8 A. Yes. And I stood a couple of steps up, and he says  
15:57:17 9 the box is right here, he's pointing towards what I assume  
15:57:20 10 is a closet area and I said okay, well, bring it down here,  
15:57:24 11 and he calmed down and slowly retrieved the box and walked  
15:57:29 12 it down.

15:57:30 13 Q. The box was upstairs, you're on stairs, he goes and  
15:57:34 14 gets them in your eyesight and brings the box down is that,  
15:57:37 15 is that right or tell me why it's wrong?

15:57:39 16 A. I didn't see where the box was exactly staying.

15:57:42 17 Q. Upstairs?

15:57:43 18 A. It was upstairs.

15:57:44 19 Q. And you're on the stairs or downstairs?

15:57:46 20 A. I am probably standing 1 or 2 stairs up, because I  
15:57:50 21 was beginning to chase him down.

15:57:52 22 Q. I get it. I get it.

15:57:54 23 So you're watching him, he goes and retrieves a  
15:57:58 24 box?

15:57:58 25 A. Yes.



Greer - cross

15:57:59 1 Q. Shoebox, did you say?

15:58:01 2 A. Similar to a shoebox. I believe it was probably the  
15:58:06 3 bottom part of a shoebox that had a lid, I didn't see the  
15:58:10 4 lid if there was a lid.

15:58:11 5 Q. At this point you're with his spouse, on the steps  
15:58:16 6 going up, are you conversing with her?

15:58:18 7 A. I may have had some small talk with her, said, I'm  
15:58:23 8 Lieutenant Greer with the state police, please be calm,  
15:58:26 9 we're okay here, I'm just conducting an investigation.

15:58:29 10 Q. And did she say anything about a gun or anything like  
15:58:33 11 that at the time?

15:58:34 12 A. No.

15:58:34 13 Q. So he comes back with the box, and is the box open or  
15:58:38 14 closed at the point at which that happened? I'm asking if  
15:58:43 15 it has a cover or not?

15:58:45 16 A. I describe it as a shoebox that didn't have the top.

15:58:49 17 Q. Okay. So in the box was whatever was in the box  
15:58:51 18 without a cover?

15:58:52 19 A. Yes.

15:58:53 20 Q. And if I understand what you said, in the box were  
15:58:59 21 socks?

15:58:59 22 A. Socks, like if you're familiar when you take a pair  
15:59:05 23 of socks and role them up in a ball and stick them in your  
15:59:08 24 drawer, that's what I would describe that as.

15:59:10 25 Q. But if they were rolled up in a ball, did you say the

Greer - cross

15:59:14 1 gun was in a sock?

15:59:15 2 A. The gun was in a sock, yes.

15:59:17 3 Q. But not -- that sock couldn't have been rolled up  
15:59:20 4 with a gun in it?

15:59:21 5 A. If I recall right, the rolled up socks were all on  
15:59:24 6 top and these stocks that contained guns were under them.

15:59:27 7 Q. There were multiple socks in this box, but the ones  
15:59:30 8 that you are talking about --

15:59:31 9 A. He had this pouch and all this other stuff were in  
15:59:34 10 that box too.

15:59:35 11 Q. What was on top, the socks or the pouch or the guns?

15:59:38 12 A. The rolled up socks.

15:59:40 13 Q. Sorry?

15:59:40 14 A. The rolled up socks. What I remember seeing is a  
15:59:43 15 bunch of socks.

15:59:44 16 Q. And under were the other things?

15:59:46 17 A. Yes.

15:59:46 18 Q. And the exhibit that you identified as the Colt gun,  
15:59:51 19 it was inside a sock?

15:59:52 20 A. A sock, yes.

15:59:53 21 Q. See did you have the box, did he give it you to you  
15:59:57 22 to look at it, or is he giving it to you himself?

16:00:01 23 A. From what I recall, he's holding the box and he pulls  
16:00:05 24 out -- he reaches down and he says I think this is what  
16:00:09 25 you're looking for and he pulled out a sock that has the gun

Greer - cross

16:00:13 1 in it. I put on latex gloves and pulled the gun out.

16:00:17 2 Q. I'm going to come back to the latex gloves in a  
16:00:20 3 second. He gives you the sock and you pull the gun out of  
16:00:22 4 the sock?

16:00:23 5 A. Yes.

16:00:23 6 Q. Now you have the gun out of the sock, right? And you  
16:00:27 7 indicated that there was also other things in that box,  
16:00:31 8 right?

16:00:32 9 A. Yes.

16:00:32 10 Q. There was, for example, I think you mentioned a  
16:00:37 11 leather pouch?

16:00:38 12 A. Yes.

16:00:39 13 Q. Now, at the point of there being a leather pouch, the  
16:00:43 14 gun was not in that pouch at this point because you just  
16:00:46 15 said it was in a sock?

16:00:48 16 A. Yes.

16:00:48 17 Q. So in the pouch was there-- was at that point, would  
16:00:52 18 you call it a speed loader, was that inside the pouch, or  
16:00:56 19 was that lying next to it?

16:00:58 20 A. Again, we're almost six years out.

16:01:01 21 Q. And if you don't remember, that's fine, I just want  
16:01:03 22 to understand.

16:01:04 23 A. What I remember is he just kind of handed me, this is  
16:01:08 24 with it too, or something, I don't know the exact words.

16:01:10 25 Q. Okay.

Greer - cross

16:01:11 1 A. But he handed me this pouch and I believe it was kind  
16:01:15 2 of like cupped with all this stuff laying inside.

16:01:18 3 Q. And did it all fit in the pouch, so the gun is not  
16:01:21 4 there, was the box of bullets inside or outside?

16:01:24 5 A. I don't think it was -- by inside you mean --

16:01:27 6 Q. Inside the pouch?

16:01:28 7 A. It was laying -- I think the pouch was open and all  
16:01:31 8 this stuff was kind of laying.

16:01:33 9 Q. All the stuff, not the gun, bullets, speed loader you  
16:01:36 10 mean, right?

16:01:37 11 A. Everything but the gun.

16:01:38 12 Q. Chap stick?

16:01:39 13 A. Chap stick, yeah.

16:01:40 14 Q. Was there a cell phone box in the box?

16:01:44 15 A. I would have to look at my report.

16:01:47 16 Q. You don't remember sitting here --

16:01:49 17 A. If you bring one up, there probably was.

16:01:52 18 Q. But that would have been in the pouch, or was it?

16:01:56 19 A. It was with all the stuff.

16:01:59 20 Q. The cell phone box?

16:02:03 21 A. From what -- I don't think all this stuff would fit  
16:02:04 22 inside the pocket of the pouch.

16:02:05 23 Q. Exactly, that's what I'm asking. So it was in the  
16:02:08 24 shoebox but where in the shoebox, some of it was in the  
16:02:11 25 pouch, some not, is that correct?

Greer - cross

16:02:14 1 A. I'll agree with you on that, yeah.

16:02:18 2 Q. All right. So now you have the box and you have  
16:02:20 3 among other things the bullets and you have the speed  
16:02:24 4 loader. There were no bullets in the gun when it was  
16:02:26 5 retrieved were there?

16:02:27 6 A. No.

16:02:28 7 Q. And you have a box and you said there were 23 of the  
16:02:31 8 bullets that there were holes for 25, correct?

16:02:35 9 A. Correct.

16:02:35 10 Q. And two loose bullets weren't in the box, right?

16:02:40 11 A. No.

16:02:40 12 Q. But they weren't in the gun?

16:02:42 13 A. No.

16:02:43 14 Q. As you looked at the gun, given your experience,  
16:02:46 15 could you even see whether it had ever been fired?

16:02:51 16 A. I didn't check to see if it had been fired.

16:02:54 17 Q. You said earlier, too, that there was, you think,  
16:02:59 18 maybe you're sure that there was some investigation to bring  
16:03:01 19 the gun somewhere and fire it. Are you sure about that?

16:03:05 20 A. Am I sure about what?

16:03:06 21 Q. That somebody after you got the gun, brought it to  
16:03:10 22 someplace and put a bullet in it and fired it?

16:03:12 23 A. I'm not sure, I never got a report back from them.

16:03:15 24 Q. You're not sure that that happened, you assume, but  
16:03:18 25 you don't know that that happened?

Greer - cross

16:03:19 1 A. I would be very surprised if it didn't.

16:03:21 2 Q. I understand what you're saying about being  
16:03:24 3 surprised, but I'm looking through the material and I'm  
16:03:26 4 asking whether there is any report of that happening, did  
16:03:29 5 you see one?

16:03:30 6 A. I don't have one, no.

16:03:31 7 Q. So you would be surprised but you don't know if  
16:03:34 8 somebody did that?

16:03:35 9 A. I do not, no.

16:03:36 10 Q. Now we're back to the box and you get the material  
16:03:39 11 and you put the latex gloves on, I'll come back to that,  
16:03:43 12 too.

16:03:43 13 Did you find out that day when he got the  
16:03:48 14 material that he was giving you?

16:03:52 15 A. Did I --

16:03:54 16 Q. Right. Did you find out on October 29th when you are  
16:03:57 17 in his house when it was that he -- did he tell you when he  
16:04:04 18 had retrieved that material?

16:04:05 19 A. Not that I recall.

16:04:06 20 Q. Did he tell you anything about the specifics about  
16:04:10 21 when he went into the trash, the pouch was upside down or it  
16:04:13 22 was right side up or whether or not the bullets were full or  
16:04:16 23 whether the bullets weren't full or anything like that that  
16:04:19 24 day?

16:04:20 25 A. No, I was just concerned with recovering a stolen

Greer - cross

16:04:25 1 firearm.

16:04:25 2 Q. At any point did he tell you or did you come to learn  
16:04:29 3 whether anybody went into the trash looking for the two  
16:04:32 4 stray bullets?

16:04:33 5 A. No.

16:04:34 6 Q. So you get this material and if I understand it  
16:04:37 7 correctly, you're now getting it and is he that volunteers  
16:04:44 8 and by the way, you might want this, too?

16:04:50 9 A. He did.

16:04:51 10 Q. And that was another gun, right?

16:04:52 11 A. It was.

16:04:53 12 Q. And it was in a different sock in the same box?

16:04:57 13 A. Yes.

16:04:57 14 Q. And underneath where the other folded socks were?

16:05:00 15 A. Yes.

16:05:01 16 Q. When you got the gun from him, the first gun or  
16:05:05 17 confronted him, did you ask him when you fished out this gun  
16:05:10 18 from the trash, Mr. So and so, I don't know if he said his  
16:05:14 19 name yet?

16:05:15 20 A. Banner.

16:05:15 21 Q. Banner, did you report it to the police, did you ask  
16:05:18 22 him that?

16:05:21 23 A. I did.

16:05:22 24 Q. Did you ask Mr. Banner if he's the one who fished it  
16:05:25 25 out, why did he not call the police when he fished out a

Greer - cross

16:05:29 1 gun, did you ask him that?

16:05:30 2 A. Yes, I did.

16:05:31 3 Q. And his response?

16:05:32 4 A. He didn't have a response.

16:05:34 5 Q. So now you've got him saying to you, and by the way,  
16:05:38 6 you may want this too, right?

16:05:40 7 A. Yes.

16:05:41 8 Q. I think you identified he said that he had another  
16:05:43 9 gun, right?

16:05:44 10 A. Yes.

16:05:44 11 Q. And you identified what it was, it was some sort of  
16:05:47 12 semiautomatic?

16:05:48 13 A. It was a Sundance 25-caliber semiautomatic.

16:05:52 14 Q. So the Colt is a revolver with five chambers, right?

16:05:55 15 A. Correct.

16:05:56 16 Q. What's a semiautomatic?

16:05:59 17 A. I wasn't allowed to bring a gun in here.

16:06:04 18 Q. You don't have to, you can describe it, there are too  
16:06:07 19 many guns in here right now.

16:06:09 20 A. If you're holding a gun in your hand, the handle  
16:06:11 21 comes down in your hand right here, from the bottom, there  
16:06:15 22 is an item referred to as a magazine that slides up into the  
16:06:19 23 handle. It has bullets stacked in it, there is a spring at  
16:06:25 24 the bottom, so there is, up at the top there is a thing  
16:06:29 25 called a firing chamber and you pull the trigger there is a



Greer - cross

16:06:33 1 hammer that comes forward, hits the back of that bullet  
16:06:36 2 that's in the firing chamber, there is a primer, when it  
16:06:39 3 strikes the primer it creates an explosion, and sends the  
16:06:44 4 bullet out of the gun.

16:06:45 5 Q. Thank you, that was way too much information than I  
16:06:49 6 wanted.

16:06:50 7 A. That's why it's a semiautomatic.

16:06:52 8 Q. A different kind of a handgun than one that has a  
16:06:56 9 revolving chamber?

16:06:56 10 A. Yes.

16:06:57 11 Q. So he gave you that one, too?

16:06:59 12 A. Yes.

16:06:59 13 Q. Was that one loaded at the time?

16:07:01 14 MR. HINES: Objection, Your Honor may we  
16:07:03 15 approach?

16:08:47 16 (Side-bar discussion.)

16:08:47 17 MR. HINES: So we've obviously given Mr. Lowell  
16:08:47 18 some leeway. The crosses have been consistently lengthy,  
16:08:47 19 two times our directs. He's asked thirty questions about  
16:08:47 20 Mr. Banners' socks.

16:08:47 21 THE COURT: I was wondering if it was outside  
16:08:47 22 the scope.

16:08:47 23 MR. HINES: We're giving some leeway, I don't  
16:08:47 24 know if we're running out the clock here, but we have two  
16:08:47 25 witnesses waiting who are 80 years old and we're trying too

Greer - cross

16:08:47 1 move forward, I think it's irrelevant all these questions  
16:08:47 2 about this other firearm.

16:08:47 3 MR. LOWELL: As to outside the scope, he talked  
16:08:47 4 about the man giving him another gun, he already talked  
16:08:47 5 about the fact that the guy explained about that gun, I have  
16:08:47 6 maybe three questions about that, I don't see how that's  
16:08:47 7 outside the door since you open the door about where the gun  
16:08:47 8 was, I didn't --

16:08:47 9 THE COURT: This is going on a little long.

16:08:47 10 MR. LOWELL: I will cut him off.

16:08:47 11 THE COURT: I got jurors over there nodding off,  
16:08:47 12 do that at your peril, but they are half sleeping.

16:08:47 13 MR. HINES: The other thing I'm up here, I would  
16:08:47 14 like to request, I did not intend to elicit this, and he  
16:08:47 15 indicated the address of the Banners and I would like to  
16:08:47 16 request that we strike that from the transcript.

16:08:47 17 MR. LOWELL: I see that.

16:08:47 18 THE COURT: I actually heard that and I was  
16:08:47 19 wondering that so we'll strike that from the transcripts.

16:08:47 20 (End of side-bar.)

16:08:47 21 BY MR. LOWELL:

16:08:47 22 Q. So we're at the part of the story where there is a  
16:08:49 23 semiautomatic gun acquired, too. Did you ask him how he got  
16:08:52 24 that?

16:08:52 25 A. I did.

Greer - cross

16:08:53 1 Q. Did you indicate that the friend gave it to him  
16:08:57 2 because the friends's brother was in some form of trouble?

16:08:59 3 A. Coworker.

16:09:00 4 Q. Coworker's brother was in some form of trouble?

16:09:03 5 A. Yes.

16:09:03 6 Q. At that point you said you did run a check of that  
16:09:07 7 gun, right?

16:09:08 8 A. Yes.

16:09:08 9 Q. Did you ask him anything about what was the name of  
16:09:11 10 the coworker?

16:09:11 11 A. Yes.

16:09:12 12 Q. And did he tell you?

16:09:13 13 A. He couldn't recall.

16:09:14 14 Q. And did he ask you the name ---so he couldn't answer  
16:09:19 15 that question, he didn't know the name of the brother who  
16:09:21 16 was quote in trouble, is that correct?

16:09:24 17 A. Correct.

16:09:24 18 Q. So then he gave you both guns. Then did you ask him  
16:09:28 19 what was he going to do with the Colt if you had not come  
16:09:31 20 and gotten it from him?

16:09:32 21 A. I did.

16:09:33 22 Q. What did he say?

16:09:34 23 A. He said it would probably sit in that box for years  
16:09:38 24 just like the other one did.

16:09:39 25 Q. Did he say that the first one had been there for

Greer - cross

16:09:42 1 years?

16:09:42 2 A. Yes.

16:09:42 3 Q. So now you have both and you leave. And you said  
16:09:45 4 that you put latex gloves on?

16:09:47 5 A. Yes.

16:09:47 6 Q. Why did you do that?

16:09:49 7 A. So that to protect the evidentiary value of the item.

16:09:54 8 Q. At the point at which you were acquiring it, right?

16:09:58 9 A. Yes.

16:09:58 10 Q. But by then he had actually had the items in his  
16:10:02 11 possession, right?

16:10:03 12 A. Yes.

16:10:03 13 Q. Without having latex gloves on as far as you could  
16:10:06 14 tell?

16:10:07 15 A. Correct.

16:10:07 16 Q. And he, at that point, confirmed he had taken it from  
16:10:10 17 the trash, right?

16:10:11 18 A. Correct.

16:10:11 19 Q. And you don't know if anybody touched it in that  
16:10:14 20 period of time?

16:10:15 21 A. I do not.

16:10:16 22 Q. Right. So at that point you're just making sure that  
16:10:19 23 when you get it it's in the form that you got it?

16:10:21 24 A. Yes, just trying not to contaminate it any further  
16:10:25 25 than it's already been.

Greer - cross

16:10:26 1 Q. Okay. And so the next thing that happens is I hear  
16:10:30 2 you took all the material. Did you ask him as to that  
16:10:34 3 second gun when he got it, did he call the police when he  
16:10:40 4 got the first gun, whenever that first gun, the  
16:10:43 5 semiautomatic, did you ask him why he didn't call the police  
16:10:46 6 about that one?

16:10:47 7 A. I don't recall. I already knew he didn't call the  
16:10:52 8 police about the first one.

16:10:53 9 Q. You didn't have to ask him. You put it in the box  
16:10:55 10 and you take it to Delaware State Police headquarters and  
16:10:58 11 put it in a vault?

16:10:59 12 A. Troop 2.

16:11:00 13 Q. Sorry?

16:11:01 14 A. Troop 2, not headquarters.

16:11:04 15 Q. I'm sorry, some Delaware State Police facility,  
16:11:08 16 right?

16:11:08 17 A. Yes.

16:11:08 18 Q. After you did that, I hear you said that you  
16:11:11 19 contacted Mr. Biden who was in the police report a victim of  
16:11:14 20 a stolen gun?

16:11:16 21 A. Yes.

16:11:16 22 Q. And you told him you had recovered it?

16:11:18 23 A. Yes.

16:11:18 24 Q. And I think you were asked some questions, Mr. Biden  
16:11:23 25 indicated he didn't want to press charges against anybody,

Greer - cross

16:11:26 1 either the person who threw it out or the person who  
16:11:28 2 retrieved it, right?

16:11:29 3 A. Correct.

16:11:30 4 Q. And at that point, he said he didn't want the gun  
16:11:32 5 back, right?

16:11:34 6 A. I don't recall him saying he didn't want the gun  
16:11:36 7 back.

16:11:36 8 Q. But you didn't give it back?

16:11:38 9 A. I explained that there were some procedural things  
16:11:40 10 that we needed to do before it could be returned.

16:11:43 11 Q. But you said it could be returned?

16:11:45 12 A. I said before it could be returned, yes.

16:11:47 13 Q. And then what happened is I think Mr. Hines asked you  
16:11:50 14 that that was in 2018 and then years later some new  
16:11:54 15 investigation occurred, right?

16:11:55 16 A. Correct.

16:11:56 17 Q. And the gun stayed in the possession of the Delaware  
16:12:00 18 State Police for all that time?

16:12:01 19 A. Correct.

16:12:01 20 Q. Meaning it was never returned to Mr. Biden?

16:12:03 21 A. It was not.

16:12:04 22 Q. And then when you say that it happened over a number  
16:12:08 23 of years, these events are October of 2018, right?

16:12:11 24 A. Yes.

16:12:12 25 Q. And the number of years in which this investigation

Greer - cross

16:12:15 1 that you understand occurred were how many years later?

16:12:18 2 A. We're almost six years later now.

16:12:21 3 Q. Now, but when the investigation began, a couple of  
16:12:23 4 years, three years?

16:12:24 5 A. I'm not certain.

16:12:26 6 Q. Did you know what happened to the material that you  
16:12:28 7 got from Mr. Banner that day that you put into the Delaware  
16:12:32 8 State Police facility between the time it was retrieved and  
16:12:35 9 the time that any other investigation occurred?

16:12:37 10 A. I assume it stayed in the evidence lock.

16:12:40 11 Q. I said you assumed. Do you know?

16:12:44 12 A. I never saw it again after I turned it over to  
16:12:48 13 Sergeant Smith.

16:12:48 14 Q. So you wouldn't know what happened in those  
16:12:50 15 intervening years?

16:12:51 16 A. No.

16:12:52 17 MR. LOWELL: Thank you for the time. I have no  
16:12:54 18 other questions.

16:12:55 19 MR. HINES: No questions.

16:12:56 20 THE COURT: All right. Thank you. Thank you,  
16:12:57 21 sir. You're excused. What's next.

16:12:59 22 MR. HINES: The United States calls Edward  
16:13:03 23 Thomas Banner.

16:13:18 24 COURTROOM DEPUTY: Please raise your right hand.  
16:13:31 25 Please state and spell your name for the record.

Banner - direct

16:13:41 1 THE WITNESS: Edward T Banner. E-D-W-A-R-D. T  
16:13:54 2 for Thomas. B-A-N-N-E-R.

16:13:57 3 EDWARD THOMAS BANNER, having been duly sworn was  
16:14:03 4 examined and testified as follows:

16:14:06 5 DIRECT EXAMINATION

16:14:08 6 THE COURT: All right. You can sit down, sir.  
16:14:10 7 Thank you. Thank you, sir. You can sit down. You probably  
16:14:18 8 want to get in the chair before it.

16:14:26 9 THE WITNESS: Thank you.

16:14:30 10 BY MR. HINES:

16:14:31 11 Q. Good afternoon, Mr. Banner. Can you hear me okay  
16:14:35 12 from there? Mr. Banner, can you hear me? Good afternoon,  
16:14:51 13 Mr. Banner, can you hear me? Testing, testing?

16:15:01 14 THE COURT: Do you want to stand up a little  
16:15:05 15 closer.

16:15:05 16 MR. HINES: May I, Your Honor? May I stand  
16:15:17 17 here, Your Honor.

16:15:18 18 THE COURT: Yes.

16:15:20 19 BY MR. HINES:

16:15:20 20 Q. Good afternoon, Mr. Banner?

16:15:22 21 A. Good afternoon.

16:15:23 22 Q. If you could speak towards this microphone, I'm going  
16:15:25 23 to position it right here for you. Can you hear me okay  
16:15:29 24 right now?

16:15:29 25 A. Yes.



Banner - direct

16:15:30 1 Q. Is it better if we speak when we're closer together  
16:15:34 2 so you can see my lips moving when we talk?  
16:15:37 3 A. Yes.  
16:15:37 4 Q. How old are you, sir?  
16:15:39 5 A. 80.  
16:15:41 6 Q. Are you retired?  
16:15:42 7 A. Yes.  
16:15:43 8 Q. How long have you been retired?  
16:15:45 9 A. Since '06.  
16:15:47 10 Q. What did you previously do for a living?  
16:15:49 11 A. I worked at General Motors for 43 -- well over  
16:15:53 12 40 years.  
16:15:53 13 Q. What did you do while you were working at General  
16:15:56 14 Motors for over 40 years?  
16:15:58 15 A. I did production, and they shipped me out and I was  
16:16:02 16 the janitor, or environmental one, and they would sometimes  
16:16:13 17 they would send me to the body shop when I was working in  
16:16:18 18 production.  
16:16:20 19 Q. Prior to working at General Motors, did you serve in  
16:16:23 20 the military?  
16:16:24 21 A. I served four years while I was working at General  
16:16:30 22 Motors, so I went in -- I worked about a year at General  
16:16:33 23 Motors, then I went in the Navy for four years.  
16:16:36 24 Q. Now, after you retired, did you acquire a hobby where  
16:16:42 25 you would collect recyclables from trash cans and then

Banner - direct

16:16:45 1     recycle them?

16:16:46 2     A.       Yes, I actually started doing that before I retired  
16:16:50 3     from General Motors, mostly with the aluminum cans and  
16:16:54 4     plastic bottles and I would take them to New York a lot of  
16:16:59 5     times, and got a nickel a piece then. But now you only get  
16:17:06 6     so much a pound. Anywheres, I was getting anywhere from  
16:17:09 7     \$0.25 a pound to \$0.75 a pound. And they take them to a  
16:17:15 8     recycle place because in New York, it's too dangerous for me  
16:17:22 9     to go up there and too far, but I would get like a \$120 when  
16:17:27 10    I took them to New York for plastic and cans. Now I only do  
16:17:31 11   cans because plastic is not -- I don't know nothing about  
16:17:35 12   plastic now.

16:17:36 13   Q.       So you're both saving the environment and making a  
16:17:39 14   little money on the side?

16:17:40 15   A.       Yes, especially now with the gas prices.

16:17:43 16   Q.       And did you have a family member in New York that you  
16:17:46 17   would go visit and use that money --

16:17:48 18   A.       Oh, absolutely, yes, I had family up there. And they  
16:17:51 19   had two restaurants, I think they're sort of getting out of  
16:17:56 20   it now, I don't know for sure.

16:17:57 21   Q.       Well, let's -- I would like to direct your attention  
16:18:01 22   to a particular date, October 23rd, 2018. Do you recall  
16:18:07 23   finding something special at the Janssen's Market that day?

16:18:12 24   A.       Yes. I don't remember the date specifically but I  
16:18:17 25   definitely remember finding that, yes.

Banner - direct

16:18:22 1 Q. And we'll go over that in a moment. In advance of  
16:18:23 2 your testimony today, were you shown a video of exterior  
16:18:27 3 footage from the Janssen's Market? In advance of your  
16:18:31 4 testimony today, were you shown a video of the exterior of  
16:18:36 5 Janssen's Market?

16:18:36 6 A. Oh, yes, yes.

16:18:37 7 Q. Did that video show you in it?

16:18:40 8 A. Yes. Yes it did.

16:18:42 9 Q. Play what's been in evidence of video 39C,  
16:18:46 10 Exhibit 39C, please. And if you look at the screen before  
16:18:51 11 you, Mr. Banner, it should come up in a moment. All right.  
16:19:10 12 If we can pause it right there, Ms. Vo. Is that you,  
16:19:15 13 Mr. Banner, in the video?

16:19:16 14 A. It sure looks like me.

16:19:18 15 Q. And now if we keep playing the video a little  
16:19:23 16 further. What are you doing as you dip out of the frame  
16:19:26 17 here in this first part of the video?

16:19:28 18 A. Apparently I'm looking in the trash can bin.

16:19:31 19 Q. Does Janssen's have a couple of exterior trash cans?

16:19:34 20 A. They have two right there by where you enter, one at  
16:19:38 21 the entrance and one just down a little bit.

16:19:41 22 Q. We'll wait a moment. And is that you now continuing  
16:19:47 23 to walk to the next trash can?

16:19:50 24 A. Uh-huh.

16:19:53 25 Q. And now when you dip out of frame again, is there a

Banner - direct

16:19:56 1 trash can right near where that white box is on the screen?

16:19:59 2 A. Right.

16:20:00 3 Q. Do you see a little object here above the trash can?

16:20:03 4 A. Yeah.

16:20:04 5 Q. Were you looking in that trash can?

16:20:06 6 A. Absolutely.

16:20:08 7 Q. What did you find in that trash can on that day?

16:20:11 8 A. Apparently I found a 38.

16:20:13 9 Q. A 38 what?

16:20:14 10 A. Pistol, or handgun.

16:20:18 11 Q. Now, I remember --

16:20:20 12 A. And there was a lot of other stuff with it, like a  
16:20:24 13 black cylinder type thing that you load the gun with or  
16:20:29 14 whatever, and it was within a floss or parchment, the gun  
16:20:38 15 was, there was other stuff along with it. That pertained to  
16:20:42 16 the gun.

16:20:43 17 Q. Okay. You found several items in that trash can?

16:20:47 18 A. Yes.

16:20:47 19 Q. We're going to go through each of them. In advance  
16:20:50 20 of your testimony today, did you have an opportunity to look  
16:20:52 21 at some of those items again?

16:20:55 22 A. Yes, I did.

16:21:03 23 Q. Let me first show you what's in evidence of, and  
16:21:09 24 still in the same condition as yesterday, Government's  
16:21:11 25 Exhibit 1. Do you recognize this, sir, Government's

Banner - direct

16:21:16 1 Exhibit 1?

16:21:16 2 A. More than likely, yes.

16:21:18 3 Q. How do you recognize it?

16:21:19 4 A. It's a .38. And the ammo was with it. And it was  
16:21:25 5 two cartridges missing.

16:21:28 6 Q. Now, Government's Exhibit 2, is this the ammunition?

16:21:34 7 A. I assume that it is, if there is two missing, it's  
16:21:38 8 more than likely the one.

16:21:39 9 Q. Would you please put up Exhibit 2A. And if you go to  
16:21:45 10 the second page, the third page.

16:21:51 11 A. Yeah, that's it.

16:21:52 12 Q. Do you see how there is two missing there?

16:21:54 13 A. Yeah, that's it.

16:21:55 14 Q. And was there two missing when you found it out of  
16:21:59 15 the trash can?

16:22:00 16 A. Yes, there was.

16:22:01 17 Q. Is this the other item that you were describing?

16:22:03 18 A. Yeah, that's a black thing I was just referring to.

16:22:06 19 Q. Do you know what this is?

16:22:08 20 A. You put the shells in it to load the gun, fast load  
16:22:11 21 or something.

16:22:14 22 Q. Okay. For the record that was Government's Exhibit 3  
16:22:19 23 that I was just showing Mr. Banner.

16:22:21 24 Now, was this the parchment that you were just  
16:22:27 25 describing, Government's Exhibit 4?

Banner - direct

16:22:32 1 A. Is this the what?

16:22:33 2 Q. You mentioned there was a parchment, I think your  
16:22:37 3 word was parchment or words to that effect, was there an  
16:22:43 4 item that had the items inside of it when you found it?

16:22:46 5 A. The parchment, the gun was in that.

16:22:52 6 Q. This was in a sealed envelope. Can I show him 4A,  
16:22:54 7 please. I'm going to show you a photograph.

16:22:57 8 A. Yeah, that looks like it.

16:22:59 9 Q. If you scroll down a little bit.

16:23:01 10 A. Because it was brown leather.

16:23:03 11 Q. There on page 3?

16:23:04 12 A. Yeah. No, I would say that was it.

16:23:10 13 Q. So when you got these items out of the trash can,  
16:23:14 14 what did you do with them?

16:23:17 15 A. Well, I had a lunch thing that I got at General  
16:23:26 16 Motors, and I put the items in that. And I didn't -- I  
16:23:30 17 never looked at it again until the police officer come and  
16:23:35 18 wanted to know about this particular situation.

16:23:39 19 Q. All right. So you took the items home after you  
16:23:41 20 found them in the trash can?

16:23:42 21 A. Right.

16:23:43 22 Q. Did they stay in that object that you were  
16:23:46 23 describing, did you put them in that object and did they  
16:23:49 24 stay there until the police came?

16:23:51 25 A. Yes, they did.

Banner - direct

16:23:52 1 Q. Did you do anything with the gun, did you shoot it,  
16:23:54 2 did you play with it?

16:23:55 3 A. No, no, I put it up on the top shelf in the closet,  
16:24:01 4 actually it was, I can't think of the name, but it was the  
16:24:07 5 lunch box that we got from General Motors, and I put it in  
16:24:11 6 there.

16:24:11 7 Q. Did you have other items in there as well, like  
16:24:14 8 clothing or other things like that?

16:24:16 9 A. Oh, in the closet. It was on a shelf like and that  
16:24:21 10 was on the top shelf.

16:24:23 11 Q. And then --

16:24:24 12 A. Or definitely near the top, you know.

16:24:28 13 Q. Is your next memory that the police came and asked  
16:24:32 14 you about the firearm?

16:24:34 15 A. Yes. Yes. I don't know whether it was weeks or  
16:24:37 16 months or how long it was, but yeah, it was after that.

16:24:40 17 Q. But between the time that the police -- between the  
16:24:44 18 time that you found the firearm and the police came, you  
16:24:47 19 didn't touch the firearm after putting it away?

16:24:50 20 A. No, I didn't look at the items until I sort of got a  
16:24:54 21 little hazy about them because I never looked at them again  
16:24:58 22 until they -- until I gave him the gun.

16:25:00 23 Q. Now, did the police officer come to your home and ask  
16:25:03 24 you to provide him with the gun?

16:25:06 25 A. They came to my home and they started asking me

Banner - direct

16:25:09 1 questions and they got to that subject, yes.

16:25:12 2 Q. And had the police officer first approached you in a  
16:25:15 3 parking lot before he came to your home and talked to you?

16:25:18 4 A. In the parking lot, possibly, I don't remember  
16:25:21 5 exactly how that all came about. But I was amazed, I'm glad  
16:25:28 6 that he took all this stuff down because I didn't record  
16:25:32 7 anything, you know, I didn't write down when I got it, I  
16:25:35 8 didn't, you know.

16:25:36 9 Q. So did you just turn everything over to the police  
16:25:39 10 that you had gotten out of that trash can?

16:25:41 11 A. Yes, I did, as a matter of fact, I had another gun  
16:25:44 12 that somebody at General Motors gave me years before this,  
16:25:49 13 and I retired in '06 so it was years before that, and I gave  
16:25:54 14 him that one, too, because I had that, either in that one or  
16:25:58 15 in another lunch box just like it because somebody at work  
16:26:02 16 had given me another one. I got one from the plant and then  
16:26:06 17 they give me another one, so I had it either in the same one  
16:26:10 18 or in a different one, you know another one.

16:26:12 19 Q. Did you ever fire or use that second gun from the  
16:26:16 20 plant?

16:26:16 21 A. No, no, all fifty ammunition was with that one, but  
16:26:20 22 my nephew got rid of it when I lived there because he didn't  
16:26:24 23 want to take any chance on anybody getting-- start using it  
16:26:29 24 for something you know, because it was in the garage then.

16:26:32 25 Q. I see like someone breaking in and taking it?



Banner - direct

16:26:35 1 A. Yeah.

16:26:36 2 Q. So you had no ammunition for that firearm in this  
16:26:39 3 house?

16:26:39 4 A. No, I gave him that gun, too.

16:26:41 5 Q. The police officer, you gave him both guns?

16:26:44 6 A. Yes, I did.

16:26:44 7 Q. Turned it over. Was your wife home that day?

16:26:47 8 A. I think she was.

16:26:48 9 Q. And your wife's first name is?

16:26:50 10 A. Joanne.

16:26:51 11 Q. And how long have you guys been married?

16:26:55 12 A. I think eleven years.

16:26:58 13 Q. Eleven years?

16:26:59 14 A. Yeah, I think so. She'll know better than I do.

16:27:05 15 Q. All right. Mr. Banner, this may sound like an  
16:27:09 16 unusual question, but does anyone in your household use  
16:27:13 17 cocaine?

16:27:14 18 A. No. No.

16:27:16 19 Q. And in your closet or your dresser or your bedroom,  
16:27:21 20 have you ever seen cocaine or residue or anything like that?

16:27:24 21 A. Not that I know of.

16:27:27 22 Q. All right.

16:27:27 23 MR. HINES: I have no further questions. Thank  
16:27:29 24 you.

16:27:30 25 THE COURT: Mr. Lowell.

Banner - cross

16:27:31 1 MR. LOWELL: Thank you.

16:27:32 2 Is it okay if I do the same thing?

16:27:35 3 THE COURT: You may come on down.

16:27:37 4 MR. LOWELL: Thank you

16:27:38 5 CROSS-EXAMINATION

16:27:39 6 BY MR. LOWELL:

16:27:39 7 Q. Good afternoon, Mr. Banner. Can you hear me okay?

16:27:41 8 A. I hear you better the closer you get.

16:27:43 9 MR. LOWELL: Can I be this close?

16:27:45 10 THE WITNESS: Yeah, that's all right.

16:27:47 11 BY MR. LOWELL:

16:27:47 12 Q. I'll tell you as a word of wisdom, one is best  
16:27:51 13 knowing how many years you have been married to a spouse, I  
16:27:54 14 can tell you.

16:27:54 15 A. What.

16:27:55 16 Q. You best know how many years you have been married to  
16:27:58 17 a spouse, you said eleven years?

16:27:59 18 A. Yeah, absolutely.

16:28:00 19 Q. I just have a few questions. You said you were at  
16:28:03 20 Janssen's --

16:28:04 21 A. No, I don't work there.

16:28:05 22 Q. No, not work there, I'm sorry, that's where you found  
16:28:08 23 the gun, is that right?

16:28:10 24 A. Yeah, that's where I found the gun.

16:28:11 25 Q. And do you that because you were looking for

Banner - cross

16:28:14 1 recyclable material?

16:28:16 2 A. Right.

16:28:16 3 Q. When you found the gun in the trash, was it in a bag  
16:28:19 4 or not in the bag?

16:28:21 5 A. Was it what?

16:28:23 6 Q. Was it in a bag?

16:28:24 7 A. Well, that piece of brown material, whatever it is.

16:28:27 8 Q. That's where it was, but was it in a shopping bag or  
16:28:30 9 a gift bag?

16:28:32 10 A. I don't recall that.

16:28:33 11 Q. Okay.

16:28:34 12 A. But all the parts were there, whatever I found, they  
16:28:36 13 were all in the trash can. I don't think they were in a  
16:28:39 14 bag, they could have been in a bag, I don't recall that.

16:28:42 15 Q. Okay. And do you recall or other than today, whether  
16:28:47 16 or not at the time you remember getting a leather pouch?

16:28:54 17 A. The gun was apparently in that.

16:28:56 18 Q. I know apparently. But were you interviewed prior to  
16:29:00 19 today by anybody in the prosecution in which you said you do  
16:29:03 20 not recall the leather pouch?

16:29:05 21 A. I recall it to a large degree, but exactly whether it  
16:29:10 22 was wrapped in it real tight or if it was loose or what, but  
16:29:15 23 it was all in there in the trash can with it.

16:29:18 24 Q. So in your understanding, whether it was in a bag,  
16:29:22 25 there is the gun, yes, the gun, the gun?

Banner - cross

16:29:25 1 A. As far as I know it wasn't in a bag, it might have  
16:29:28 2 been in that parchment but it wasn't in a bag, as far as I  
16:29:32 3 know.

16:29:32 4 Q. And the bullets, a box of bullets?

16:29:34 5 A. Yes, there was.

16:29:35 6 Q. When you retrieved the gun, it wasn't loaded, was it?

16:29:39 7 A. I don't think so, unless it's loaded now. If it was  
16:29:42 8 loaded, it should be still loaded. I didn't --

16:29:46 9 Q. You didn't look?

16:29:47 10 A. Well, not that I recall, because I certainly didn't  
16:29:50 11 take any out and I didn't put any in.

16:29:53 12 Q. Did you look in the trash to see if there were any  
16:29:57 13 bullets that had fallen out of the box?

16:29:59 14 A. No, no, because if they -- I only processed the top,  
16:30:04 15 I don't dig down to the bottom. Especially if they're full.

16:30:09 16 Q. Okay. So you took it out of the trash?

16:30:12 17 A. Yes, sir.

16:30:12 18 Q. And then did you put it or was it in a bag or was it  
16:30:16 19 all just in the parchment?

16:30:18 20 A. I might have put it in a bag with the cans, or  
16:30:22 21 whatever, plastic bottles, whatever I was doing at the time.

16:30:25 22 Q. And then you brought it home to your house?

16:30:28 23 A. Yes. I don't know if I brought it directly home, I  
16:30:31 24 might have been around somewhere else in town there.

16:30:34 25 Q. At some point?

Banner - cross

16:30:35 1 A. Greenville.

16:30:36 2 Q. At some point you did bring it home?

16:30:38 3 A. Absolutely.

16:30:40 4 Q. Okay. And you said when you did, you put it in a

16:30:44 5 lunch box kind of thing?

16:30:47 6 A. Yeah.

16:30:47 7 Q. Like a lunch box?

16:30:48 8 A. Not a lunch box.

16:30:50 9 Q. Tell me.

16:30:51 10 A. It's sort of like a bag, it's about that big, and I

16:30:55 11 can't think of the name of it, but suggestion plan, a

16:31:01 12 suggestion plan lunch box from General Motors and I put the

16:31:05 13 stuff in there.

16:31:06 14 Q. Now I understand like a suggestion box where people

16:31:09 15 put suggestions in?

16:31:10 16 A. Sort of like a cloth thing that you would put a lunch

16:31:13 17 in, but I never put lunches in them, I apparently used it

16:31:17 18 for that.

16:31:18 19 Q. Okay. Do you have any recall about taking the gun

16:31:21 20 you found and putting it in a sock, a sock, you know, a

16:31:26 21 sock, did you put it in a sock?

16:31:28 22 A. I didn't put it in no sock, no.

16:31:31 23 Q. Okay. So as far as you remember, no sock?

16:31:34 24 A. No sock, I don't remember no sock.

16:31:36 25 Q. And you said this box was put on the top shelf, is

Banner - cross

16:31:39 1 that right?

16:31:40 2 A. Either the top or at near the top, you know, there  
16:31:44 3 might have been something else above it, I don't know.

16:31:46 4 Q. And then when the officer came and asked you  
16:31:50 5 questions and you gave it to them?

16:31:52 6 A. I went up and got it, yeah.

16:31:54 7 Q. And then did you then tell him you had another gun?

16:31:59 8 A. Yeah, I might have had it right in the same one, I'm  
16:32:02 9 not sure, that's a box.

16:32:06 10 Q. And when you have that other gun in the same or  
16:32:09 11 another box, was that also in a sock?

16:32:13 12 A. Was what?

16:32:14 13 Q. Was that in a sock, the second one?

16:32:16 14 A. In a sock?

16:32:17 15 Q. In a sock.

16:32:19 16 A. I know nothing about a sock, that parchment or  
16:32:23 17 whatever was shown there, it was in that. The other gun was  
16:32:26 18 never in that.

16:32:26 19 Q. Where was the other gun?

16:32:28 20 A. It was in a -- in a suggestion plan box, the same one  
16:32:34 21 or another one just like it because somebody at work had  
16:32:37 22 given me a second one that was theirs, and I had two of them  
16:32:42 23 as far as I know. And it might have been in a separate one  
16:32:45 24 or whatever, but I didn't need either gun, I mean, I wasn't  
16:32:50 25 --

Banner - cross

16:32:50 1 Q. But you had two guns in the boxes, two?

16:32:53 2 A. Yeah, I had two guns up there together, one might  
16:32:57 3 have been in one suggestion plan lunch box and the other one  
16:33:01 4 could have been in the other one or they both could have  
16:33:04 5 been in the same one, but I don't know if they would fit, so  
16:33:07 6 I didn't want to try to differentiate that, but they were  
16:33:12 7 definitely separate guns.

16:33:13 8 Q. I understand, but I want to follow-up on just one  
16:33:16 9 thing. When you got that first gun, the one from your  
16:33:19 10 co-worker, I think you said there were bullets when you got  
16:33:22 11 it?

16:33:22 12 A. No, they were not bullets in the gun, there were  
16:33:25 13 fifty bullets in a box just like the other box, there was  
16:33:29 14 two black men, the one that gave me the gun was the brother  
16:33:33 15 and he said it was his brother's gun and he didn't want his  
16:33:37 16 brother to get in trouble with it, that's why he gave it to  
16:33:40 17 me, so I had that one several years longer than the other  
16:33:43 18 one.

16:33:43 19 Q. And it had a box of ammunition?

16:33:46 20 A. Yes.

16:33:47 21 Q. Your nephew took it away early, after that?

16:33:50 22 A. The ammunition was gone when I put the other gun in  
16:33:53 23 the other.

16:33:54 24 Q. Right.

16:33:55 25 A. Because my nephew at the time I was living at my

16:33:59 1 nephews and, or where he lives, and he didn't want the  
16:34:05 2 ammunition because he had two little, they were little, but  
16:34:10 3 he was worried about the ammunition, somebody getting the  
16:34:14 4 gun and using it, the same as I was about the other gun.

16:34:17 5 Q. When you took the material out of the trash, you held  
16:34:19 6 it in your hands, you held the gun, you held the pouch?

16:34:23 7 A. I imagine I held it one way or the other when it was  
16:34:27 8 in the pouch or whether it was out of the pouch, but I took  
16:34:32 9 it out and looked at it at some point or I wouldn't have  
16:34:35 10 known what it was.

16:34:36 11 Q. And then on October 29th when Detective Greer came to  
16:34:40 12 your house, you gave it all to him?

16:34:42 13 A. That's right.

16:34:43 14 MR. LOWELL: I have no other questions.

16:34:44 15 THE COURT: Thank you. Any redirect?

16:34:47 16 MR. HINES: No, Your Honor. Thank you.

16:34:48 17 THE COURT: Thank you, sir. Thank you very  
16:34:50 18 much.

16:34:51 19 THE WITNESS: You're welcome.

16:34:52 20 THE COURT: You're excused. Be careful stepping  
16:34:55 21 down there.

16:34:57 22 THE WITNESS: All right.

16:35:01 23 THE COURT: Mr. Hines, what's next?

16:35:03 24 MR. HINES: We're going to move on to --

16:35:08 25 THE COURT: You're not going to call her.



16:35:11 1 MR. HINES: No.

16:35:12 2 THE COURT: So then we can finish. All right.

16:35:18 3 So at this point we're going to take our evening break and  
16:35:21 4 I'll just ask you not to talk to anybody, listen to anybody,  
16:35:24 5 do any internet search or listen to any reports anywhere of  
16:35:28 6 any kind. And I'll see you here tomorrow at 9 o'clock.

16:35:33 7 Thank you.

16:35:34 8 COURTROOM DEPUTY: All rise.

16:35:36 9 (Jury exiting the courtroom at 4:35 p.m.)

16:36:03 10 THE COURT: Mr. Lowell, like the movies, you get  
16:36:10 11 to get right in their face when you cross-examine, it's not  
16:36:13 12 like it's made out to be like it's in movies.

16:36:17 13 MR. LOWELL: No, it's not like Perry Mason did.

16:36:20 14 THE COURT: All right. I forgot to ask the  
16:36:25 15 jurors not to talk to each other, but I will do that  
16:36:28 16 tomorrow, I promise, before we do anything, and they're  
16:36:31 17 going to leave right now anyway.

16:36:33 18 The government, so defendant put in a  
16:36:40 19 supplemental jury instruction document last week, a couple  
16:36:48 20 weeks ago. For the most part I think I understand what  
16:36:53 21 their positions are and what yours are from our prior  
16:36:56 22 discussions and from their written part. There is a good  
16:37:00 23 faith instruction. I don't know what the government's  
16:37:02 24 position is on that. If you guys can -- you don't have to  
16:37:05 25 tell me right now, but you can either submit something or

16:37:08 1 tell me in the morning so I can understand where we are.

16:37:11 2 MR. HINES: Yes, Your Honor. Will do.

16:37:13 3 THE COURT: Anything else we need to talk about?

16:37:15 4 MR. LOWELL: I'm sorry, Judge.

16:37:16 5 MR. HINES: We have two witnesses in the  
16:37:20 6 morning, it's the chemist and then the drug expert. We  
16:37:23 7 anticipate we will rest in the morning.

16:37:28 8 THE COURT: The drug expert?

16:37:29 9 MR. HINES: Yeah, Joshua Romig from the DEA,  
16:37:33 10 both we will qualify as experts in the case, the chemist is  
16:37:37 11 Dr. Jason Brewer of the FBI, he's a very short witness and  
16:37:40 12 the drug expert, Joshua Romig from the DEA, he is in our  
16:37:45 13 view not a long witness, we think we will rest in the  
16:37:48 14 morning.

16:37:48 15 THE COURT: Okay.

16:37:48 16 MR. LOWELL: On that, Judge, one holdover item.  
16:37:52 17 So if you remember on our last --

16:37:55 18 THE COURT: Everybody else can be seated. I  
16:37:57 19 apologize.

16:37:59 20 MR. LOWELL: On our lab expert, you wanted to  
16:38:02 21 hear from them, we're not deciding whether we're going to  
16:38:04 22 call him until I hear Agent Brewer, but he'll be here if we  
16:38:08 23 decide to do that so you can voir dire him if that's what  
16:38:11 24 you want to do.

16:38:12 25 THE COURT: Yes.

16:38:13 1 MR. LOWELL: Okay. Thank you.

16:38:15 2 THE COURT: And so yeah, actually why don't we  
16:38:18 3 do this, if they rest, then maybe we can take a little bit  
16:38:21 4 longer of a break if you want before you put on your case,  
16:38:25 5 if you want to do that, or you can -- we can do it at  
16:38:28 6 lunchtime, take a little bit longer lunch and you can think  
16:38:32 7 about whether you want to put him on.

16:38:34 8 MR. LOWELL: That would be helpful, also in  
16:38:37 9 terms of timing, this is not going to delay the game because  
16:38:40 10 no matter what we would have on this point depending on that  
16:38:44 11 witness, very few, two or three, maybe not even witnesses,  
16:38:47 12 we told the government who they are, and then we would make  
16:38:50 13 the decision as to whether Mr. Biden is going to testify.  
16:38:53 14 Even if that happened, Judge, the whole thing can be done by  
16:38:57 15 Monday at the end of the day, so if we took a longer break,  
16:39:01 16 that may be good because we also want to present to you,  
16:39:03 17 which we'll file whatever way you want it, the Rule 29.

16:39:07 18 THE COURT: Got it. Okay.

16:39:08 19 MR. LOWELL: Thank you.

16:39:09 20 THE COURT: Anything you all have?

16:39:10 21 MR. HINES: No, Your Honor, thank you.

16:39:12 22 THE COURT: All right. Then we'll see you in  
16:39:13 23 the morning.

16:39:14 24 COURTROOM DEPUTY: All rise. Court is  
16:39:26 25 adjourned.

16:39:26 1

(Court adjourned at 4:39 p.m.)

2

3

4

I hereby certify the foregoing is a true and  
accurate transcript from my stenographic notes in the proceeding.

5

6

/s/ Dale C. Hawkins  
Official Court Reporter  
U.S. District Court

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25